

STAMP DUTIES ACT CAP. 441 LFN, 1990.

• Laws • Subsidiary Legislation •

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CHAPTER S8

STAMP DUTIES ACT

An Act to provide for the levying of stamp duties on certain matters.

[5 of 1939, 28 of 1941, 17 of 1942, 26 of 1946, 38 of 1950, 2 of 1953, Resolution and Order 2 of 1948, 1 of 1951, Resolution 6 of 1951, Order 47 of 1951, L.N. 64 of 1954, 131 of 1954, 47 of 1955, 90 of 1956.]

[1st April, 1939]

[Commencement.]

1. Short title

This Act may be cited as the Stamp Duties Act.

[54 & 55. Vict. C. 38 (s. 27) L.N. 131 of 1954.]

2. Interpretation

In this Act unless the context so requires—

“Accountant-General” means the Accountant-General of the Federation;

“commissioner” means a commissioner of stamp duties appointed as hereinafter provided;

“die” includes any plate, type, tool, or implement whatever used under the direction of the Minister of Finance or his counterpart in the State, as the case may be, for expressing or denoting any duty, or rate of duty, or the fact that any duty, or rate of duty or penalty has been paid, or that an instrument is duly stamped, or is not chargeable with any duty, or for denoting any fee, and also any part of any such plate, type, tool or implement;

“duty” means any stamp duty for the time being chargeable under this or any other Act and also includes any fee chargeable hereunder;

“executed” and “execution” with reference to instruments not under seal, mean signed and signature;

“Government” includes the Government of the Federation or of a State and any department thereof, local government council, and an officer acting in his official capacity on behalf of the Government of the Federation or of a State or any department thereof, or of a local government area, and not on behalf of a private person;

“instrument” includes every written document;

“marketable security” includes a security of such a description as to be capable of being sold in any stock market;

“material” includes every sort of material upon which words or figures can be expressed;

“money” includes all sums expressed in naira or in any foreign currency;

“stamp” means a stamp impressed by means of a die as an adhesive stamp for denoting any duty or fee;

“stamped” with reference to instruments and material, applies as well to instruments and material impressed with stamps by means of a die as to instruments and material having adhesive stamps affixed thereto;

“stock” includes any share in any stocks transferable at the Central Bank of Nigeria, promissory notes, and any share in the stocks or funds of any foreign State or Government, or in the capital stock or funded debt of any local authority, corporation, company or society in Nigeria or of any foreign corporation, company, or society;

“write”, “written” and “writing” include every mode in which words or figures can be expressed upon material.

PART I

Provisions applicable to instruments generally

Charge of duty upon instruments

3. Charge of duties in Schedule

(1) From and after the commencement of this Act, the duties to be charged upon the several instruments specified in the Schedule to this Act shall be the several duties set out in the said Schedule, which duties shall be in substitution for the duties heretofore chargeable under the enactments repealed by this Act and shall be subject to the exemptions contained in this Act and in any other Act for the time being in force.

[L.N. 49 of 1961. L.N. 131 of 1954. L.N. 112 of 1964. Schedule.]

(2) The duties charged under this Act shall be accounted for in a manner to be prescribed in proper case by the Minister after consultation with the Governors of the States.

(3) The functions under this Act shall be respectively confined to matters in respect of which the Government of the Federation and the Government of such State shall be competent to make laws:

Provided that nothing herein shall be interpreted as preventing the appointment by the President and by a Governor of the same person to be both a Federal and a State commissioner under section 6 of this Act.

4. Stamping and collection of duties on corporate instruments

(1) The Federal Government shall be the only competent authority to impose, charge and collect duties upon instruments specified in the Schedule to this Act if such instrument relates to matters executed between a company and an individual, group or body of individuals.

(2) The State Governments shall collect duties in respect of instruments executed between persons or individuals at such rates to be imposed or charged as may be agreed with the Federal Government.

(3) In this section, "company" includes banks and other financial institutions.

5. Manner of denoting duty

(1) All duties for the time being chargeable under the provisions of this Act upon any instruments shall be paid and denoted according to the provisions in this Act, and, except where express provision is made to the contrary in this Act or by the regulations made thereunder, are to be denoted by impressed stamps only.

(2) Where the duty may be denoted by adhesive stamps, postage stamps may, subject to the provisions of any Act or regulation, be used for the purpose.

(3) Every instrument written upon stamped material shall be written in such a manner, and every instrument partly or wholly written before being stamped shall be so stamped, that the stamp shall appear on the face of the instrument and cannot be used or applied to any other instrument written upon the same piece of material.

(4) No impressed or embossed stamp or stamps made by means of a die shall be used in any manner except upon the document upon which it was originally impressed, embossed or stamped.

(5) The amount of the duty upon any instrument may be denoted by several stamps, and stamps of greater value than is required may be used upon any instrument.

Appointment of commissioners

6. Commissioners of stamp duties

(1) The relevant Civil Service Commission may appoint one or more officers who shall be commissioners of stamp duties and shall have the care and management of the duties to be taken under this Act.

[L.N. 131 of 1954.]

(2) Except as otherwise provided by this Act or by any law for the time being in force, any decision, act or thing required to be made or done by a commissioner may be made or done by any one of the said commissioners when there are more than one commissioners.

(3) When appointing a commissioner, the President or Governor, as the case may be, may signify that the duty of such commissioner shall be confined to adjudication under section 15 of this Act.

7. Discontinuance and issue of dies

(1) Until discontinued as provided in this section, the dies for impressed revenue stamps in use at the coming into force of this Act shall continue to be used, and the commissioners may, from time to time, procure new dies of the same design. [L.N. 131 of 1954.]

(2) No die of new design of impressed revenue stamp shall be used without the approval of the Minister or Governor, as the case may be, and a notification of such approval shall be published in the Federal Gazette at least one month before such new die shall be used.

(3) The Minister or Governor, as the case may be, may by notice in the Federal Gazette determine to discontinue the use of any die for the use of a revenue stamp and provide a new die to be used in lieu thereof: then from and after any day to be stated in the notice (such day not being within one month after the same is so published) the new die shall be the only lawful die for denoting the duty chargeable in any case in which the discontinued die would have been used; any and every instrument first executed by any person, or bearing date after the day so stated, and stamped with the discontinued die, shall be deemed to be not duly stamped:

Provided that—

(a) if any instrument stamped as last aforesaid, and first executed after the day so stated at any place out of Nigeria is brought to a commissioner within 21 days after it has been received in Nigeria, then, upon proof of the facts to the satisfaction of the commissioner, the stamps thereon shall be cancelled and the instrument shall be stamped with the same amount of duty by means of the lawful die, without the payment of any penalty;

(b) all persons having in their possession any material stamped with the discontinued dies, and which by reason of the providing of such new die has been rendered useless, may, at any time within six months after the day stated in the notice, send the said material to the Accountant-General who shall cause the stamp on such material to be cancelled and refund the amount of duty paid upon such material.

8. Instruments to be separately charged with duty in certain cases

Except where express provision to the contrary is made by this or any other Act—

(a) an instrument containing or relating to several distinct matters shall be separately and distinctly charged, as if it were a separate instrument, with duty in respect of each of such matters;

(b) an instrument made for any consideration or consideration in respect whereof it is chargeable with ad valorem duty, and also for any further or other valuable consideration, or considerations, shall be separately and distinctly charged, as if it were a separate instrument, with duty in respect of each of the considerations.

9. Facts and circumstances affecting duty to be set forth in instrument

All the facts and circumstances affecting the liability of any instrument to duty, or the amount of the duty with which any instrument is chargeable, shall be fully set forth in the instrument; and every person who, with intent to defraud the Government of the Federation or of any State— [L.N. 131 of 1954.]

(a) executes any instrument in which all the said facts and circumstances are not fully and truly set forth; or

(b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all the said facts and circumstances,

shall be guilty of an offence and liable on conviction to a fine of forty naira.

10. Mode of calculating ad valorem duty in certain cases

(1) Where an instrument is chargeable with ad valorem duty in respect of—

(a) any money in any foreign currency; or

(b) any stock or marketable security,

the duty shall be calculated on the value, on the day of the date of the instrument, of the money in United States dollars according to the current rate of exchange, or of the stock or security according to the average price thereof.

(2) Where an instrument contains a statement of current rate of exchange, or average rate of exchange, or average price, as the case may require, and is stamped in accordance with that statement, it shall, so far as regards the subject matter of the statement, be deemed duly stamped, unless or until it is shown that the statement is untrue, and that the instrument is in fact insufficiently stamped.

Use of adhesive stamps

11. Cancellation of adhesive stamps

(1) An instrument, the duty upon which is required or permitted by law to be denoted by an adhesive stamp, shall not be deemed duly stamped with an adhesive stamp unless the person required by law to cancel such adhesive stamp cancels the same by writing on or across the stamp his name or initials, or the name or initials of his firm, together with the true date of his so writing, or otherwise effectively cancels the stamp and renders the same incapable of being used for any other instrument or for any postal purpose or for payment of a telegram:

Provided that, when the person required by law to cancel an adhesive stamp is an illiterate person, the stamp shall be deemed to be sufficiently cancelled, if the mark of such person, together with the true date of the making thereof, is written on or across such stamp.

(2) When two or more adhesive stamps are used to denote the duty upon an instrument, each or every stamp shall be cancelled in the manner aforesaid.

(3) Every person who, being required by law to cancel an adhesive stamp, neglects or refuses duly and effectively to do so in the manner aforesaid, shall be guilty of an offence and liable on conviction to a fine of twenty naira.

12. Proper time for stamping instruments

Every instrument first executed in Nigeria, which by law may be or is required to be stamped with an adhesive stamp, shall be stamped on or before its first execution, and such stamp shall be cancelled by the person by whom the instrument is first executed and, at the time of such execution: [28 of 1941.]

Provided that where an instrument is prepared or attested by or executed before a commissioner of oaths, a justice of the peace or a notary public, such stamp shall be cancelled by such commissioner of oaths, justice of the peace or notary public at the time of its first execution.

13. Penalty for fraud in relation to adhesive stamps

(1) If any person—

(a) fraudulently removes or causes to be removed from any instrument any adhesive stamp, or affixes to any other instrument or uses for any postal purpose any adhesive stamp which has been so removed, with intent that the stamp may be used again; or

(b) sells or offers for sale, or utters any adhesive stamp which has been so removed, or utters any instrument having thereon any adhesive stamp which has to his knowledge been so removed as aforesaid,

he shall be guilty of an offence and liable on conviction in addition to any other fine or penalty to which he may be liable, to a fine of one hundred naira.

(2) The expression “instrument” in this section, includes a telegram and any postal article within the meaning of the Nigerian Postal Services Act. [Cap. N127.]

Appropriated stamps

14. Appropriated stamps

(1) A stamp which by any word or words on the face of it is appropriated to any particular description of instrument shall not be used, or if used, shall not be available, for an instrument of any other description.

(2) An instrument falling under the particular description to which any stamp is so appropriated as aforesaid shall not be deemed duly stamped, unless it is stamped with the stamp so appropriated.

Adjudication by a commissioner

15. As to denoting certificate

Where the duty with which an instrument is chargeable depends in any manner upon the duty paid upon another instrument, the payment of such last-mentioned duty shall, upon the application to a commissioner, payment of a fee of 26 kobo and production of both the instruments, be denoted upon such first-mentioned instrument by a certificate under the hand of the commissioner.

16. The commissioner may be required to express his opinion as to duty

(1) Subject to such regulations as the Minister or Governor, as the case may be, may think fit to make, a commissioner may be required by any person to express his opinion with reference to the amount of duty (if any) payable on any executed instrument; and in such case, a certificate shall be endorsed on the instrument, under the hand of the commissioner, stating that, in his opinion, such instrument is not chargeable with any duty, or the particular amount with which, in his opinion, it is chargeable or, if in his opinion such is the case, that it is duly stamped: [26 of 1946.]

Provided that nothing in this section shall extend to any instrument chargeable with ad valorem duty and made as a security for money or stock without limit; or shall authorise the stamping after the execution thereof of any instrument which by law cannot be stamped after execution.

(2) An adhesive stamp for the fee prescribed under sections 15 and 66 of this Act shall be supplied to the commissioner by the person requiring the certificate at the time when the application for the certificate is made and such stamp shall be fixed to the instrument by the commissioner and cancelled by him prior to giving the certificate.

17. The commissioner may call for and refuse to proceed without evidence

In any case of application to a commissioner with reference to any instrument, the commissioner may require to be furnished with such evidence by means of affidavit or otherwise as he may deem necessary in order to show to his satisfaction whether all the facts and circumstances affecting the liability of the instrument to duty, or the amount of the duty chargeable thereon, are fully and truly set forth therein, and may refuse to proceed upon any such application until such evidence has been furnished accordingly.

18. Persons authorised to take declarations and affidavits

Any statutory declaration or affidavit made in pursuance of or for the purposes of this Act or any other Act for the time being in force relating to stamp duties may be made before any of the commissioners or any other person authorised by law to administer oaths.

19. Effect of assessment by commissioner and payment of duty in accordance therewith

Every instrument bearing a certificate of a commissioner that it is not chargeable with duty or that it is duly stamped, or being stamped with the amount of duty assessed and certified by him shall be admissible in evidence and available for all purposes, notwithstanding any objection relating to duty:

Provided that an instrument upon which the duty has been assessed by a commissioner shall not be stamped otherwise than in accordance with the assessment of the commissioner.

20. Two commissioners not to adjudicate on same instrument

Any person, other than a public officer in the exercise of his official duties who, after an instrument has been submitted to a commissioner for his opinion as to the amount of duty with which the instrument is chargeable, subsequently submits the same instrument to a different commissioner for an expression of his opinion as to the amount of duty with which the instrument is chargeable, shall be guilty of an offence and shall be liable on conviction to a fine of twenty naira.

21. Persons dissatisfied may appeal.

(1) Any person who is dissatisfied with the assessment of a commissioner may, within 21 days after the date of the assessment, and on payment of duty in conformity therewith, appeal against the assessment to the High Court of the State in which the assessment was made and may for that purpose require the commissioner to state and sign a case, setting forth the question upon which his opinion was required, and the assessment made by him. [L.N. 47 of 1955.]

(2) The commissioner shall thereupon state and sign a case and deliver the same to the person by whom it is required, and the case may, within seven days thereafter but not later, be filed by him in the High Court and thereafter be heard by the said court.

(3) Upon the hearing of the case, the court shall determine the question submitted, and, if the instrument in question is in the opinion of the court chargeable with any duty, shall assess the duty with which it is chargeable.

(4) If it is decided by the court that the assessment of the commissioner is wrong, the court shall assess the correct amount of duty; and

(a) in the event of an excess of duty having been paid in conformity with the erroneous decision of the commissioner, any excess of duty which may have been paid in conformity with such decision, together with any fine or penalty which may have been paid in consequence thereof, shall be ordered by the court to be repaid to the appellant, with or without costs as the court may determine; and

(b) in the event of the court assessing an amount of duty greater than that assessed by the commissioner, the difference between the amount of duty assessed by the commissioner and the amount assessed by the court together with any fine or penalty which may have been incurred but not yet paid, with or without costs as the court may determine, shall be paid by the appellant, forthwith or within such time as the court may direct, in stamps which shall be affixed to or impressed on the document in the presence of a commissioner and in the case of adhesive stamps, cancelled by him.

22. Terms upon which instruments not duly stamped may be received in evidence

(1) Upon the production of an instrument chargeable with any duty as evidence in any court of civil judicature in Nigeria, or before any arbitrator or referee, notice shall be taken by the judge, magistrate, arbitrator, or referee of any omission or insufficiency of the stamps thereon, and if the instrument is one which may legally be stamped after the execution thereof, it may, on payment to the officer of the court whose duty it is to read the instrument, or to the arbitrator or referee, of the amount of the unpaid duty, and the penalty payable on stamping the same, and of a further sum of two naira, be received in evidence, saving all just exceptions on other grounds.

(2) The officer, or arbitrator, or referee receiving the duty and penalty shall give a receipt for the same, and make an entry in the proper book kept for the purpose of showing receipts of money and of the amount thereof, and shall communicate to a commissioner the name or title of the proceedings in which and of the part from whom, he received the duty and penalty, and the date and description of the instrument, and shall pay over to the Accountant-General the money so received by him for the duty and penalty.

(3) On production to the commissioner of any instrument in respect of which any duty or penalty has been paid, together with the receipt, the payment of the duty and penalty shall be denoted on the instrument.

(4) Except as aforesaid and subject to the provisions of section 90 (3) of this Act, an instrument executed in Nigeria, or relating, wheresoever executed, to any property situate or to any matter or thing done or to be done in Nigeria, shall not, except in criminal proceedings, be given in evidence, or be available for any purpose whatever, unless it is duly stamped in accordance with the law in force in Nigeria at the time when it was first executed.

Stamping of instruments after execution

23. Stamping of instruments after execution

(1) Except where other express provision is made in this Act, any unstamped or insufficiently stamped instrument may be stamped with an impressed stamp at any time within forty days from the first execution thereof (unless such period of forty days is reduced by an order as provided in subsection (7) of this section) upon payment of the duty or unpaid duty only but after that time the said instrument may only be stamped upon payment of the unpaid duty and a penalty of twenty naira, and also by way of further penalty, where the unpaid duty exceeds twenty naira, of interest on such duty, at the rate of ten per cent per annum, from the day upon which the instrument was first executed up to the time when the amount of interest is equal to the unpaid duty. [28 of 1941. L.N. 131 of 1954. L.N. 112 of 1964. 28 of 1941.]

(2) Stamps representing the amount of the unpaid duty together with the penalty shall—

- (a) in the case of impressed stamps, be impressed on the instrument; and
- (b) in the case of adhesive stamps, be affixed to the instrument,

in the presence of a commissioner, who shall thereupon, in the case of adhesive stamps, cancel the stamps by writing his initials and the date thereon, and in addition, in the case of those stamps whether impressed or adhesive which do not clearly indicate that they represent a penalty, write the word "Penalty" thereon, and any such cancellation shall be effective for all purposes.

(3) In the case of such instruments hereinafter mentioned as are chargeable with ad valorem duty, the following provisions shall have effect—

(a) the instrument, unless it is written upon duly stamped material, shall be duly stamped with the proper ad valorem duty before the expiration of thirty days after it is first executed, or after it has been first received in Nigeria if it was first executed at any place outside Nigeria;

(b) if any such instrument executed after the coming into operation of this Act has not been or is not duly stamped in conformity with the foregoing provisions of this subsection, the person in that behalf specified in paragraph (c) of this subsection shall be guilty of an offence and liable on conviction to a fine of twenty naira, and in addition to the penalty prescribed under subsection (1) and (2) on stamping the instrument there shall be paid a further penalty equivalent to the unpaid duty thereon, unless a reasonable excuse for the delay in stamping or the omission to stamp, or the insufficiency of stamp, is afforded to the satisfaction of the commissioner, or of the court, arbitrator or referee before whom it is produced;

(c) the instruments and persons to which the provisions of this subsection are to apply are as follows—

Title of instrument as described in the Schedule	Person liable to penalty
Bond, covenant, or instrument of any kind whatsoever.	The obligee, covenantee or other person taking the security.
Conveyance on sale.	The vendee or transferee.
Conveyances or transfers operating as voluntary dispositions inter vivos.	The grantor or transferor.
Lease	The lessee.
Mortgage bond, debenture, covenant, and warrant of attorney to confess and enter up judgment. The mortgagee or obligee, in the case of a transfer or reconveyance, the transferee, assignee or disponent or the person redeeming the security.	
Settlement	The settler.

(4) Except where other express provision is made by this Act in relation to any particular instrument, any unstamped or insufficiently stamped instrument which has been first executed at any place outside Nigeria, may be stamped, at any time within thirty days after it has been first received in Nigeria, on payment of the unpaid duty only.

(5) Where an instrument is void unless it has been approved or sanctioned by the Minister or some public officer, the periods mentioned in this section shall be deemed to run from the date of such approval or sanction.

(6) Where an instrument has been submitted to a commissioner for his opinion before the period within which it may be stamped has expired, the instrument may be stamped in accordance with the assessment of the commissioner within 21 days after notice of the assessment.

(7) The date of the approval or sanction referred to in subsection (4) and of the notice of assessment in subsection (6) of this section shall be the date upon which such approval, sanction or notice of assessment has been sent by registered or ordinary letter post to the address of the person who requested the approval or sanction referred to in subsection (5) of this section or the assessment in subsection (6) of this section, as the case may be, or after notice of such approval, sanction or assessment has been handed personally to such person or his representative.

(8) Where the Minister or Governor, as the case may be, is of the opinion that the period of forty days specified in subsection (1) of this section or of thirty days specified in subsections (3) and (4) of this section is—

(a) being used in any manner for the purpose of evading the payment of stamp duties; or

(b) too long or too short in view of the fact that a commissioner is either easy or difficult of access for the purposes of assessing the duty payable upon any instrument or of having stamps impressed upon an instrument liable to duty,

the Minister or Governor, as the case may be, may by order declare that for the period of forty days specified in subsection (1) and for the periods of thirty days specified in subsections (3) and (4) of this section or either of them, there shall be substituted such lesser or longer period of time as may be specified in the said order and thereafter such lesser period shall be substituted for the period of forty days specified in subsection (1) of this section and such lesser or longer period for the periods of thirty days specified in subsections (3) and (4) of this section or either of them, as the case may be, in the application of this section to instruments first executed or received in those towns, areas or places to which the order relates.

(9) An order under this subsection may specify different periods of time in respect of different places and may be restricted or increased in the case of a period of time referred to in subsection (3) of this section to instruments first executed in Nigeria.

Entries upon rolls, books and documents

24. Certain rolls and books to be open to inspection

(1) Every person having in his custody any rolls, books, records, papers, documents, or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person thereto authorised by the commissioner to inspect the rolls, books, records, papers, documents, and proceedings, and to take such notes and extracts as he deems necessary, without fee or reward, and in case of refusal, shall for every such refusal be guilty of an offence and be liable on conviction to a fine of twenty naira.

(2) Where such rolls, books, records, papers, documents or proceedings are in the custody of any bank, such inspection shall first be made by a commissioner unaccompanied by any other person unless the commissioner decides that it is necessary for him to have assistance in determining whether any fraud or omission in relation to any duty has taken place.

25. Penalty for enrolling instrument not stamped

If any person whose office it is to enroll, register or enter in or upon any rolls, books or records any instrument chargeable with duty, enrolls, registers or enters any such instrument not being duly stamped, he shall be guilty of an offence and liable on conviction to a fine of twenty naira.

Destruction of unclaimed instruments

26. Destruction of unclaimed instruments

Where any instrument has been left with or at the office of any commissioner for any purpose connected with any of the provisions of this Act and the instrument is not claimed by the person to whom the same belongs within six months of its being so left, a notice may be inserted in an issue of the Federal Gazette stating that the instrument will be destroyed if not claimed by such person within two months of the publication of the notice and if the instrument is not so claimed it may be destroyed.

PART II

Regulations applicable to particular instruments

Admission

27. Mode of denoting duty

(1) The duty payable upon an admission shall be denoted on the instrument of admission delivered to the person admitted, if there is any such instrument, or if not, on the register, entry or memorandum of the admission in the rolls, books or records of the court in which the person is admitted and in cases in which no instrument of admission is delivered, and no register, entry, or memorandum is made, on the receipt or warrant for admission. [28 of 1941.]

(2) If any person whose office it is to prepare or deliver out any instrument of admission chargeable with duty, or to register, enter, or make any memorandum of any admission in respect of which no instrument of admission is delivered to the person admitted, neglects or refuses, within one month after the admission, to prepare a duly stamped instrument of admission, or to make a duly stamped register, entry, or memorandum of the admission as the case may require, he shall be guilty of an offence and liable on conviction to a fine of twenty naira.

Agreements

28. Adhesive stamps may be used for agreements

The duty of ten kobo on an agreement may be denoted by an adhesive stamp which must be cancelled by the person by whom the agreement is first signed before he delivers it out of his hands.

29. Certain mortgages of stock to be chargeable as agreements

(1) Every instrument under hand only (not being a promissory note or bill of exchange) given upon the occasion of the deposit of any share warrant or stock certificate to bearer, or foreign share certificate or any security for money transferable by delivery, by way of security for any loan, shall be deemed to be an agreement, and shall be charged with duty accordingly.

(2) Every instrument under hand only (not being a promissory note or bill of exchange) making redeemable or qualifying a duly stamped transfer, intended as a security, of any registered stock or marketable security shall be deemed to be an agreement and shall be charged with duty accordingly.

(3) A release or discharge of any such instrument shall not be chargeable with any ad valorem duty.

30. Hire purchase agreement to be stamped

Any agreement for or relating to the supply of goods on hire, whereby the goods in consideration of periodical payments shall or may become the property of the person to whom they are supplied, shall be charged with duty as an agreement and if under seal as a deed, as the case requires, and the exemption numbered (3) under the heading "Agreement or any Memorandum of an Agreement" in the Schedule to this Act shall not apply in the case of any such instrument.

Appraisements

31. Definition of "appraiser"

For the purposes of this Act, the expression “appraiser” means a person who values or appraises any estate or property, real or personal, or any interest, whether in possession or not, in any estate or property, or any goods, merchandise, or effects for or in expectation of any hire, gain, fee or reward.

32. Appraisements to be written out

(1) Every appraiser, by whom an appraisal or valuation chargeable with duty is made, shall, within fourteen days after the making thereof, write out the same in words and figures showing the full amount thereof, and shall duly stamp the same and if he neglects or omits so to do, or in any other manner first discloses the amount of the appraisal or valuation, he shall be guilty of an offence and liable to a fine of one hundred naira. [28 of 1941.]

(2) Every person who receives from any appraiser, or pays for the making of any such appraisal or valuation, not so written out and stamped as aforesaid, shall incur a fine of forty naira.

Instruments of apprenticeship

33. Meaning of instrument of apprenticeship

Every writing relating to the service or tuition of any apprentice, clerk, or servant placed with any master to learn any profession, trade or employment, is to be deemed an instrument of apprenticeship.

Bank notes, bills of exchange and promissory notes

34. Meaning of “banker” and “bank note”

For the purposes of this Act, the expression “banker” means any person carrying on the business of banking in Nigeria and the expression “bank note” includes—

(a) any bill of exchange or promissory note issued by any banker for the payment of money not exceeding two hundred naira to the bearer on demand; and

(b) any bill of exchange or promissory note so issued which entitles or is intended to entitle the bearer or holder thereof, without endorsement or without any further or other endorsement than may be thereon at the time of the issuing thereof, to the payment of money not exceeding two hundred naira on demand, whether the same be so expressed or not and in whatever form, and by whomsoever the bill or note is drawn or made.

35. Bankers not to issue bank notes in Nigeria other than those of Central Bank of Nigeria

(1) It shall not be lawful for any banker to issue in Nigeria any bank note. [L.N. 112 of 1964.]

(2) Any person who commits an offence against this section shall be guilty of an offence and liable on conviction to a fine of two hundred naira.

(3) The provisions of this section shall not apply to the issue or uttering by any banker of bills or notes issued by the Central Bank of Nigeria.

Bills of exchange and promissory notes

36. Meaning of “bill of exchange”

For the purposes of this Act, the expression “bill of exchange” includes draft, order, cheque and letter of credit, and any document or writing (except a bank note) entitling or purporting to entitle any person, whether named therein or not, to payment by any other person or to draw upon any other person for, any sum of money; and the expression “bill of exchange payable on demand” includes—

(a) an order for the payment of any sum of money by a bill of exchange or a promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money or for payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen; and

(b) an order for the payment of any sum of money weekly, monthly or at any other stated periods, and also an order for the payment by any person at any time after the date thereof of any sum of money, and sent or delivered by the person making the same to the person by whom the payment is to be made and not to the person to whom the payment is to be made, or to any person on his behalf.

37. Meaning of “promissory note”

(1) For the purposes of this Act, the expression “promissory note” includes any document or writing (except a bank note) containing a promise to pay any sum of money.

(2) A note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen, shall be deemed a promissory note for that sum of money.

38. Statement of duty payable on promissory note containing guarantee

Where an instrument under hand only contains both a promissory note by a principal debtor and a guarantee by a surety but there is no memorandum of charge, pledge or deposit or other form of security, such instrument shall be stamped both as a promissory note and as a guarantee, and all other matters contained in a promissory note which would be liable to duty if contained in a separate instrument, shall be charged separately.

39. Provisions for use of adhesive stamps on bills and notes

(1) The fixed duty of two kobo on a bill of exchange, payable on demand or at sight or on presentation or within three days after date or sight, may be denoted by an adhesive stamp, which, where the bill is drawn in Nigeria, shall be cancelled by the person by whom the bill is signed before he delivers it out of his hands, custody, or power.

(2) The ad valorem duties upon bills of exchange and promissory notes drawn or made out of Nigeria are to be denoted by adhesive stamps.

40. Provisions as to stamping foreign bills and notes

(1) Every person into whose hands any bill of exchange or promissory note, drawn or made out of Nigeria, comes in Nigeria before it is stamped shall, before he presents for payment, or endorses, transfers or in any manner negotiates, or pays the bill or note, affix thereto a proper adhesive stamp or proper adhesive stamps of sufficient amount, and cancel every stamp so affixed thereto:

Provided—

(a) that if at the time when any such bill or note comes into the hands of any bona fide holder there is affixed thereto an adhesive stamp effectually cancelled, the stamp shall, so far as it relates to the holder, be deemed to be duly cancelled, although it may not appear to have been fixed or cancelled by the proper person;

(b) that if at the time when any such bill or note comes into the hands of any bona fide holder there is affixed thereto an adhesive stamp not duly cancelled, it shall be competent for the holder to cancel the stamp as if he were the person by whom it was affixed, and upon his so doing the bill or note shall be deemed duly stamped and as valid and available as if the stamp had been cancelled by the person by whom it was affixed.

(2) Neither of the provisions specified in paragraphs (a) and (b) of subsection (1) of this section shall relieve any person from any fine or penalty incurred by him for not cancelling an adhesive stamp.

41. Provisions as to bills and notes purporting to be drawn abroad

A bill of exchange or promissory note which purports to be drawn or made out of Nigeria shall, for the purposes of determining the mode in which the duty thereon is to be denoted, be deemed to have been so drawn or made, although it may in fact have been drawn or made in Nigeria.

42. Penalty for issuing any unstamped bill or note

(1) Every person who issues, endorses, transfers, negotiates, presents for payment, or pays any bill of exchange or promissory note liable to duty and not being duly stamped, shall be guilty of an offence and liable on conviction to a fine of twenty naira, and the person who takes or receives from any other person any such bill or note either in payment or as a security, or by purchase or otherwise, shall not be entitled to recover thereon, or to make the same available for any purpose whatever:

Provided that if any bill of exchange payable on demand or at sight or on presentation, or within three days after date or sight is presented for payment unstamped, the person to whom it is presented may affix thereto an adhesive stamp of two kobo, and cancel the same, as if he had been the drawer of the bill, and may thereupon pay the sum in the bill mentioned, and charge the duty in account against the person by whom the bill was drawn, or deduct the duty from the said sum, and the bill shall, so far as respects the duty, be deemed valid and available.

(2) The proviso to subsection (1) of this section shall not relieve any person from any fine or penalty incurred by him in relation to such bill.

43. One bill only of a set need be stamped

When a bill of exchange is drawn in a set according to the custom of merchants, and one of the set is duly stamped, the other or others of the set shall, unless issued or in some manner negotiated apart from the stamped bill, be exempt from duty; and upon proof of the loss or destruction of a duly stamped bill forming one of the set, any other bill of the set which has not been issued or in any manner negotiated apart from the lost or destroyed bill may, although unstamped, be admitted in evidence to prove the contents of the lost or destroyed bill.

Bills of lading

44. Bills of lading

(1) A bill of lading is not to be stamped after the execution thereof.

(2) Every person who makes or executes any bill of lading not duly stamped shall be guilty of an offence and liable on conviction to a fine of one hundred naira.

Bills of sale

45. Bills of sale

A bill of sale shall not be registered under any law for the time being in force relating to the registration of bills of sale unless the original, duly stamped, is produced to the proper officer.

46. Provisions as to duty on charter-party

(1) For the purposes of this Act, the expression "charter-party" includes any agreement or contract for the charter of any ship or vessel or any memorandum, letter, or other writing between the captain, master or owner of any ship or vessel, and any other person for or relating to the freight or conveyance of any money, goods, or effects on board of a ship or vessel. [28 of 1941.]

(2) The duty upon a charter-party may be denoted by an adhesive stamp, which shall be cancelled by the person by whom the instrument is last executed, or by whose execution it is completed as a binding contract.

47. Charter-parties executed abroad

Where a charter-party is first executed out of Nigeria without being duly stamped, any party thereto may, within ten days after it has been first received in Nigeria, and before it has been executed by any person in Nigeria, affix thereto an adhesive stamp denoting the duty chargeable thereon, and at the same time cancel such adhesive stamp, and the instrument when so stamped shall be deemed duly stamped. [28 of 1941.]

48. Terms upon which charter-parties may be stamped after execution

A charter-party may be stamped with an impressed stamp after execution upon the following terms—

[28 of 1941.]

(a) within seven days after the first execution thereof, on payment of the duty and a penalty of 45 kobo;

(b) after seven days but within one month after the first execution thereof, on payment of the duty and a penalty of twenty naira,

and shall not in any other case be stamped with an impressed stamp.

Contract notes

49. Provisions as to contract notes

(1) For the purpose of this Act, the expression "contract note" means the note sent by a broker or agent to his principal, or by any person who, by way of business, deals, or holds himself out as dealing, as a principal in any stock or marketable securities, advising the principal, or the vendor or purchaser, as the case may be, of the sale or purchase of any stock or marketable security, but does not include a note sent by a broker or agent to his principal where the principal is himself acting as broker or agent for a principal.

(2) Where a contract note is a continuation or carrying over note made for the purpose of continuing or carrying over any transaction for the sale or purchase of stock or marketable security, the contract note, although it is made in respect of both a sale and purchase, shall be charged with duty under this section as if it related to one of those transactions only, and, if different rates of duty are chargeable in respect of those transactions, to that one of those transactions which would render the contract note chargeable at the highest rate.

(3) Where a contract note advises the sale or purchase of more than one description of stock or marketable security, the note shall be deemed to be as many contract notes as there are descriptions of stocks or securities sold or purchased.

50. Obligation to execute contract note

(1) Any person who effects any sale or purchase of any stock or marketable security as a broker or agent, and any person who, by way of business, deals, or holds himself out as dealing, as a principal in any stock or marketable security, and buys or sells any such stock or marketable security, shall forthwith make and execute a contract note and transmit the note to his principal, or to the vendor or purchaser of the stock or marketable security, as the case may be, and in default of so doing shall be guilty of an offence and liable on conviction to a fine of forty naira.

(2) If any person makes or executes any contract note chargeable with duty and not being duly stamped, he shall be guilty of an offence and liable on conviction to a fine of forty naira.

(3) No broker, agent, or other person shall have any legal claim to any charge for brokerage, commission or agency, with reference to the sale or purchase of any stock or marketable security if he fails to comply with the provisions of this section.

(4) All stamp duties on a contract note may be denoted by an adhesive stamp which is to be cancelled by the person by whom the note is executed.

(5) Any duty on a contract note may be added to the charge for brokerage or agency, and shall be recoverable as part of such charge.

51. Extension of provisions as to contract notes to sale or purchase of options

(1) The provisions of this Act as to contract notes shall apply to any contract under which an option is given or taken to purchase or sell any stock or marketable security at a future time at a certain price, as it applies to the sale or purchase of any stock or marketable security, but the duty on such a contract shall be one half only of that chargeable on a contract note:

Provided that, if under the contract a double option is given or taken, the contract shall be deemed to be a separate contract in respect of each option.

(2) Any contract note made or executed in pursuance and in consequence of the exercise of an option given or taken under a contract duly stamped in accordance with the provisions of this section, shall be charged with one half only of the duty which would otherwise have been chargeable thereon under this Act:

Provided that it bears on its face a certificate by the broker, agent or other person mentioned in section 50 of this Act to the effect that it is made or executed in the exercise of an option for which a duly stamped contract has been rendered on the date mentioned in the certificate.

Conveyances on sale

52. Meaning of "conveyance on sale"

(1) For the purposes of this Act, the expression "conveyance on sale" includes—

(a) every instrument, and every decree or order of any court whereby any property, or any estate or interest in any property, upon the sale thereof is transferred to or vested in a purchaser, or any other person on his behalf or by his direction;

(b) a decree or order for, or having the effect of an order for foreclosure.

(2) Notwithstanding subsection (1) of this section—

(a) the ad valorem duty upon any such decree or order shall not exceed the duty on a sum equal to the value of the property to which the decree or order relates, and where the decree or order states that value, that statement shall be conclusive for the purposes of determining the amount of the duty; and

(b) where ad valorem duty is paid upon such decree or order, any conveyance following upon such decree or order shall be exempt from the ad valorem duty.

53. How ad valorem duty is to be calculated in respect of stock and securities

(1) Where the consideration, or any part of the consideration, for a conveyance on sale consists of any stock or marketable security, the conveyance shall be charged with ad valorem duty in respect of the value of the stock or security.

(2) Where the consideration, or any part of the consideration, for a conveyance on sale consists of any security not being a marketable security, the conveyance shall be charged with ad valorem duty in respect of the amount due on the day of the date thereof for principal and interest upon the security.

54. How consideration consisting of periodical payments to be charged

(1) Where the consideration, or any part of the consideration, for the conveyance on sale consists of money payable periodically for a definite period not exceeding twenty years, so that the total amount to be paid can be previously ascertained, the conveyance shall be charged in respect of that consideration with ad valorem duty on such total amount.

(2) Where the consideration, or any part of the consideration, for a conveyance on sale consists of money payable periodically for a definite period exceeding twenty years or in perpetuity or for an indefinite period not terminable with life, the conveyance shall be charged in respect of that

consideration with ad valorem duty on the total amount which shall or may, according to the terms of sale, be payable during the period of twenty years next after the day of the date of the instrument.

(3) Where the consideration, or any part of the consideration, for the conveyance on sale consists of money payable periodically during any life or lives, the conveyance shall be charged in respect of that consideration with ad valorem duty on the amount which shall or may, according to the terms of the sale, be payable during the period of twelve years next after the day of the date of the instrument.

(4) No conveyance on sale chargeable with ad valorem duty in respect of any periodical payments, and containing also provision for securing the payments, shall be charged with any duty in respect of such provision, and no separate instrument made in that case for securing the payments is to be charged with any higher duty than one naira.

55. Conveyance on sale with further covenant

A conveyance on sale made for any consideration in respect whereof it is chargeable with ad valorem duty, and in further consideration of a covenant by the purchaser to make, or of his having previously made, any substantial improvement of or addition to the property conveyed to him, or of any covenant relating to the subject matter of the conveyance, shall not be chargeable, and shall be deemed not to have been chargeable, with any duty in respect of such further consideration.

56. How conveyance in consideration of a debt is to be charged

Where any property is conveyed to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or encumbrance upon the property or not, the debt, money or stock shall be deemed the whole or part, as the case may be, of the consideration in respect whereof the conveyance is chargeable with ad valorem duty.

57. Direction as to duty in certain cases

(1) Where property contracted to be sold for one consideration for the whole is conveyed to the purchaser in separate parts or parcels by different instruments, the consideration shall be apportioned in such manner as the parties think fit, so that a distinct consideration for each separate part or parcel is set forth in the conveyance relating thereto, and such conveyance shall be charged with ad valorem duty in respect of such distinct consideration.

(2) Where property contracted to be purchased for one consideration for the whole by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in separate parts or parcels by separate instruments to the persons by or for whom the same was purchased for distinct parts of the consideration, the conveyance of each separate part or parcel shall be charged with ad valorem duty in respect of the distinct part of the consideration therein specified.

(3) Where there are several instruments of conveyance for completing the purchaser's title to property sold, the principal instrument of conveyance only shall be charged with ad valorem duty, and the other instruments shall respectively be charged with such other duty as they may be liable to, but the last mentioned duty shall not exceed the ad valorem duty payable in respect of the principal instrument.

(4) Where a person having contracted for the purchase of any property, but not having obtained a conveyance thereof, contracts to sell the same to any other person, and the property is in consequence

conveyed immediately to the sub-purchaser, the conveyance shall be charged with ad valorem duty in respect of the consideration moving from the sub-purchaser.

(5) Where a person having contracted for the purchase of any property but not having obtained a conveyance, contracts to sell the whole, or any part or parts thereof, to any other person or person, and the property is in consequence conveyed by the original seller to different persons in parts or parcels, the conveyance of each part or parcel shall be charged with ad valorem duty in respect only of the consideration moving from the sub-purchaser thereof, without regard to the amount or value of the original consideration.

(6) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with ad valorem duty in respect of the consideration moving from him, and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable only with such other duty as it may be liable to, but the last mentioned duty shall not exceed the ad valorem duty.

58. Certain contracts to be chargeable as conveyances on sale

(1) Any contract or agreement under seal, or under hand only, for the sale of any equitable estate or interest in any property whatsoever, or for the sale of any estate or interest in any property except property locally situated out of Nigeria, or goods, wares, or merchandise, or stock or marketable securities, or any ship or vessel or part interest, share, or property of or in any ship or vessel, shall be charged with the same ad valorem duty, to be paid by the purchaser, as if it were an actual conveyance on sale of the estate, interest or property contracted or agreed to be sold.

(2) Where the purchaser has paid the said ad valorem duty and before having obtained a conveyance or transfer of the property, enters into a contract or agreement for the sale of the same, the contract or agreement shall be charged, if the consideration for that sale is in excess of the consideration for the original sale, with the ad valorem duty payable in respect of such excess consideration, and in any other case with the fixed duty of two naira or ten kobo, as the case may require.

(3) Where the duty has been paid in conformity with the foregoing provisions, the conveyance or transfer made to the purchaser or sub-purchaser, or any other person on his behalf or by his direction, shall not be chargeable with any duty, and a commissioner upon application, either shall denote the payment of the ad valorem duty upon the conveyance or transfer, or shall transfer the ad valorem duty thereto upon production of the contract or agreement, or contracts or agreements, duly stamped.

(4) Where any such contract or agreement is stamped with the fixed duty of three naira, as the case may require, the contract or agreement shall be regarded as duly stamped for the mere purpose of proceeding to enforce specific performance or recover damages for the breach thereof.

(5) Where any such contract or agreement is stamped with the said fixed duty, and a conveyance or transfer made in conformity with the contract or agreement is presented to a commissioner for stamping with the ad valorem duty chargeable thereon within a period of six months after the first creation of the contract or agreement, or within any such longer time as the commissioner may think reasonable in the circumstances of the case, the conveyance or transfer shall be stamped accordingly, and the same, and the said contract or agreement shall be deemed to be duly stamped:

Provided that nothing in this subsection shall alter or affect the provisions as to stamping an instrument after the execution thereof.

(6) The ad valorem duty paid upon any such contract or agreement shall be returned by the Accountant-General on a certificate by the commissioner in case the contract or agreement be afterwards rescinded or annulled, or for any other reason be not substantially performed or carried into effect, so as to operate as or be followed by a conveyance or transfer.

(7) Any certificate required from the commissioner under this section shall be free of charge.

59. Where interest in land transferred by sale and possession without a conveyance

Where any instrument which purports to convey any estate or interest in land, hereditament or heritage does not operate in law to transfer such estate or interest, then, if the instrument constitutes an agreement or contract to sell such estate or interest, it shall be deemed to be a contract or agreement within the meaning of section 58 of this Act: [28 of 1941.]

Provided that where the purchaser is entitled to such an estate or interest by virtue of an instrument creating or transferring the same and such estate, interest or instrument is registered under any Act, any contract or agreement for the sale of such estate or interest shall not be chargeable with duty under section 58 of this Act.

60. Provision as to sale of an annuity or right not before in existence

Where upon the sale of an annuity or other right not before in existence such annuity or other right is not created by actual grant or conveyance, but is only secured by bond, warrant of attorney, covenant, contract, or otherwise, the bond or other instrument, or some one of such instruments, if there be more than one, shall be charged with the same duty as an actual grant or conveyance, and shall for the purposes of this Act be deemed an instrument of conveyance on sale.

61. Principal instrument, how to be ascertained

The parties may determine for themselves which of several instruments shall be deemed the principal instrument, and may pay the ad valorem duty thereon accordingly.

62. Duty payable in certain cases under an Act on vesting of property

Where by virtue of an Act, either— [L.N. 112 of 1964.]

- (a) any property is vested by way of sale in any person; or
- (b) any person is authorised to purchase property,

such person shall within three months of the passing of the Act, or the date of vesting, whichever is later, or after the completion of the purchase, as the case may be, produce to a commissioner a copy of the Act or some instrument relating to the vesting in the first case, and an instrument of the conveyance of the property in the other case, duly stamped with ad valorem duty payable upon a conveyance on sale of the property; and in default of such production, the duty with interest thereon at the rate of ten per cent per annum from the passing of the Act, date of vesting or completion of the purchase, as the case may be, shall be a debt to the Government of the Federation from such person.

63. Duty on gifts inter vivos

(1) Any conveyance or transfer operating as a voluntary disposition inter vivos shall be chargeable with the like duty as if it were a conveyance or transfer on sale, with the substitution in each case of the value of the property conveyed or transferred for the amount or value of the consideration for the sale:

[26 of 1946.]

Provided that this section shall not apply to a conveyance or transfer operating as a voluntary disposition of property to a body of persons incorporated by a special Act, if that body is by its Act precluded from dividing any profit among its members and the property conveyed is to be held for the purposes of an open space or for the purposes of its preservation for the benefit of Nigeria.

(2) A commissioner may be required to express his opinion under section 16 of this Act on any conveyance or transfer operating as a voluntary disposition inter vivos, and no such conveyance or transfer shall be deemed to be duly stamped unless a commissioner has expressed his opinion thereon in accordance with that section.

(3) Where any instrument is chargeable with duty both as a conveyance or transfer under this section and a settlement under the heading "Settlement" in the Schedule to this Act, the instrument shall be charged with duty as a conveyance or transfer under this section, and not as a settlement.

(4) Any conveyance or transfer (not being a disposition made in favour of a purchaser or incumbrancer or other person in good faith and for valuable consideration) shall, for the purposes of this section, be deemed to be a conveyance or transfer operating as a voluntary disposition inter vivos, and (except where marriage is the consideration) the consideration for any conveyance or transfer shall not for this purpose be deemed to be valuable consideration where the commissioner is of opinion that by reason of the inadequacy of the sum paid as consideration or other circumstances the conveyance or transfer confers a substantial benefit on the person to whom the property is conveyed or transferred.

(5) A conveyance or transfer made for nominal consideration for the purpose of securing the repayment of an advance or loan or made for effectuating the appointment of a new trustee or the retirement of a trustee, whether the trust is expressed or implied, or under which no beneficial interest passes in the property conveyed or transferred, or made to a beneficiary by a trustee or other person in a fiduciary capacity under any trust, whether expressed or implied, or a disentailing assurance not limiting any new estate other than an estate in fee simple in the person disentailing the property, shall not be charged with duty under this section, and this subsection shall have effect notwithstanding that the circumstances exempting the conveyance or transfer from charge under this section are not set forth in the conveyance or transfer.

64. Licence with a grant to enter upon land

A licence to a person to enter upon land coupled with a grant, whether such grant be the removal of material from land or other transfer of property, shall (where a premium is paid by the licensee) be subject to ad valorem duty as a conveyance on sale for the premium so paid or, where rent is paid by the licensee, be subject to duty as a lease at the rent so payable.

Conveyances on any occasion except sale or mortgage

65. What is to be deemed a conveyance on any occasion not being a sale or mortgage

Every instrument, and every decree or order of any court, whereby any property on any occasion, except a sale, or mortgage, is transferred to or vested in any person, shall be charged with duty as a conveyance or transfer of property:

Provided that a conveyance or transfer made for effectuating the appointment of a new trustee or for effectuating the retirement of a trustee although no new trustee is appointed, shall not be charged with any higher duty than one naira.

Duplicates and counterparts

66. Provision as to duplicates and counterparts

The duplicate or counterpart of an instrument chargeable with duty (except the counterpart of an instrument chargeable as a lease, such counterpart not being executed by or on behalf of any lessor or grantor) shall not be deemed duly stamped, unless it is stamped as an original instrument, or unless it is made to appear to a commissioner (who shall upon payment of a fee of 25 kobo in adhesive stamps, certify on such duplicate or counterpart accordingly) that the full and proper duty has been paid upon the original instrument of which it is the duplicate or counterpart.

Exchange and partition or division

67. Provisions as to exchange

Where upon the exchange of any real property for any other real property, or upon the partition or division of any real property, any consideration exceeding in amount or value two hundred naira is paid or given, or agreed to be paid or given, for equality, the principal or only instrument whereby the exchange or partition is effected shall be charged with the same ad valorem duty as a conveyance on sale for the consideration, and with that duty only; and where in any such case there are several instruments for completing the title of either party, the principal instrument shall be ascertained, and the other instruments shall be charged with duty in the manner hereinbefore provided in the case of several instruments of conveyance.

Leases

68. Agreements to be charged as lease

(1) An agreement for a lease, or with respect to the letting of any lands or tenements, shall be charged with the same duty as if it were an actual lease made for the term and consideration mentioned in the agreement.

(2) A lease made subsequently to, and in conformity with, such an agreement duly stamped, is to be charged with the duty of ten kobo only.

69. Leases, how to be charged in respect of produce

(1) Where the consideration, or any part of the consideration, for which a lease is granted or agreed to be granted, consists of any produce or other goods, the value of the produce or goods shall be deemed a consideration in respect of which the lease or agreement is chargeable with ad valorem duty as for a conveyance on sale.

(2) Where it is stipulated that the value of the produce or goods is to amount at least to, or is not to exceed, a given sum, or where the lessee is specially charged with, or has the option of paying after any permanent rate of conversion, the value of the produce or goods shall, for the purpose of assessing the ad valorem duty, be estimated at the given sum or according to the permanent rate.

(3) A lease or agreement for a lease made either wholly or partially for any such consideration, if it contains a statement of the value thereof, and is stamped in accordance with the statement, shall, so far as regards the subject matter of the statement, be deemed duly stamped, unless or until it is otherwise shown that the statement is incorrect, and that the lease or agreement is in fact not duly stamped.

70. Directions as to duty in certain cases

(1) A lease or agreement for a lease or with respect to any letting, is not to be charged with any duty in respect of any penal rent, or increased rent in the nature of a penal rent, thereby reserved or agreed to be reserved or made payable, or by reason of being made in consideration of the surrender or abandonment of any existing lease, or agreement, of or relating to the same subject matter.

(2) A lease made for any consideration in respect whereof it is chargeable with ad valorem duty, and in further consideration either of a covenant by the lessee to make, or of his having previously made, any substantial improvement of or addition to the property demised to him, or of any covenant relating to the matter of the lease, shall not be charged with any duty in respect of such further consideration:

Provided that if the further consideration in the lease consists of a covenant which if it were contained in a separate deed would be charged with ad valorem duty, the lease shall in any such case be charged with duty in respect of any such further consideration under section 8 of this Act.

(3) An instrument whereby the rent reserved by any other instrument chargeable with duty and duly stamped as a lease is increased, shall not be charged with duty otherwise than as a lease in consideration of the additional rent thereby made payable.

71. Duty on certain leases may be denoted by adhesive stamp

The duty upon an instrument chargeable with duty as lease for any definite term less than a year and the duty upon the duplicate or counterpart of any such instrument, may be denoted by an adhesive stamp which shall be cancelled by the person by whom the instrument is first executed. [28 of 1941.]

Letter of allotment or renunciation, scrip certificates and scrip

72. Provisions as to letters of allotment

Every person who executes, grants, issues, or delivers out any document chargeable with duty as a letter of allotment, letter or renunciation, or scrip certificate, or as scrip, before the same is duly stamped, shall be guilty of an offence and liable on conviction to a fine of forty naira.

73. Duty on both letter of allotment and letter of renunciation

A separate duty shall be charged in respect of letters of allotment and letters of renunciation, although they may be contained in the same document.

Letters or powers of attorney and voting papers

74. Provisions as to proxies and voting papers

(1) Every letter or power of attorney for the purpose of appointing a proxy to vote at a meeting, and every voting paper, hereby respectively charged with the duty of two kobo, shall specify the day upon which the meeting at which it is intended to be used is to be held, and shall be available only at the meeting so specified, and any adjournment thereof.

(2) Every person who makes or executes, or votes, or attempts to vote, under or by means of any such letter or power of attorney or voting paper, not being duly stamped, shall be guilty of an offence and liable on conviction to a fine of one hundred naira, and every vote given or tendered under the authority or by means of the letter or power of attorney or voting paper, shall be void.

75. Power by more than one person or to more than one person to count as one power

No instrument chargeable with duty under the heading "Letter or Power of Attorney, and Commission, Factory, Mandate or other instrument in the nature thereof" in the Schedule to this Act shall be charged with duty more than once by reason only that more persons than one are named in the instrument as donors or donees (whether jointly, severally or otherwise) of the powers thereby conferred or that those powers relate to more than one matter.

Marketable securities

76. Meaning of "marketable securities"

Marketable securities, whether or not transferrable by delivery for the purposes of the charge of duty thereon, include—

(a) a marketable security made or issued by or on behalf of any company or body of persons corporate or unincorporate formed or established in Nigeria;

(b) a marketable security by or on behalf of any foreign State or Government, or foreign corporation (hereinafter called a "foreign security") formed or established outside Nigeria—

(i) which is made or issued in Nigeria;

(ii) which, though originally issued out of Nigeria is offered for subscription, and is given or delivered to a subscriber in Nigeria;

(iii) which is assigned, transferred or in any manner negotiated in Nigeria;

(c) a marketable security by or on behalf of any Commonwealth Government which, if the borrower were a foreign Government, would be a foreign security (hereinafter called a "Commonwealth Government Security").

77. Meaning of marketable security transferable on delivery and instrument to bearer

An instrument used for the purpose of assigning, transferring or in any manner negotiating the right to any marketable security, share or stock, shall, if the delivery thereof is by usage treated as sufficient for the purpose of a sale on the market, whether that delivery constitutes a legal assignment, transferable on delivery or an instrument to bearer, as the case may be, and the delivery thereof an assignment, transfer or negotiation.

78. Marketable security transferable on delivery to be stamped on execution

(1) A marketable security transferable on delivery (not being a foreign security or a Commonwealth Government Security made or issued out of Nigeria) shall be stamped on or before the issue or first execution thereof, and a foreign security made or issued out of Nigeria shall be stamped before being dealt with in the manner specified in section 75 (b) (ii) and (iii) of this Act.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine of forty naira.

79. Duty reduced in case of short-term marketable securities

(1) The stamp duty charged on marketable securities transferable by delivery shall, when the amount secured by the security is to be paid off within a term not exceeding three years after the date on which the duty is payable, and the date by which the amount is to be paid off is conspicuously stated on the face of the security, be reduced to five kobo for every twenty naira or fractional part of twenty naira of the money secured, if that money is to be paid off within a term not exceeding one year from the date on which the duty is payable, and ten kobo for every twenty naira or fractional part of twenty naira of the money secured, if that money is to be paid off within a term exceeding one year but not exceeding three years from the date on which the duty is payable. [28 of 1941.]

(2) If the marketable security upon which the stamp duty has been charged in accordance with this section is assigned, transferred or in any manner negotiated in Nigeria after the date stated on the face of the security as the date by which the amount secured is to be paid off, stamp duty thereon shall be charged at the full rate of duty, an allowance being made for the duty already paid, and if any person in Nigeria after the said date assigns, transfers or in any manner negotiates or is concerned as booker or agent in assigning, transferring or in any manner negotiating any such security, and the security is not stamped in accordance with this provision, that person shall be guilty of an offence and liable on conviction to a fine of forty naira.

(3) Paragraph (3) under the heading "Marketable Security" in the Schedule to this Act, shall not apply in the case of marketable securities given in substitution for marketable securities which have been stamped only with the reduced rate under this section.

Mortgages

80. Meaning of "mortgage" and "equitable mortgage"

(1) For the purposes of this Act, the expression "mortgage" means a security by way of mortgage for the payment of any definite and certain sum of money advanced or lent at the time, or previously due and owing, or forborne to be paid, being payable, or for the repayment of money to be thereafter lent, advanced, or paid, or which may become due upon an account current, together with any sum already advanced or due, or without, as the case may be; and includes—

(a) conditional surrender by way of mortgage, further charge or disposition;

(b) any conveyance of any lands, estate or property whatsoever in trust to be sold or otherwise converted into money, intended only as a security and redeemable before the sale or other disposal thereof, either by express stipulation or otherwise, except where the conveyance is made for

the benefit of creditors generally, or for the benefit of creditors specified who accept the provision made for payment of their debts in full satisfaction thereof, or who exceed five in number;

(c) an defeasance, letter of reversion, declaration or other deed or writing for defeating or making redeemable or explaining or qualifying any conveyance, transfer or disposition of any lands, estate or property whatsoever, apparently absolute, but intended only as a security;

(d) any agreement (other than an agreement chargeable with duty as an equitable mortgage), contract, or bond accompanied with a deposit of title deeds for making a mortgage, or any other security or conveyance as aforesaid of any land, estate, or property comprised in title deeds, or for pledging or charging the same as a security; and

(e) any deed operating as a mortgage of any stock or marketable security.

(2) For the purposes of this Act, the expression "equitable mortgage" means an agreement or memorandum under hand only—

(a) relating to the deposit of any title deed or instrument constituting or being evidence of the title to any property whatever (other than stock or marketable security); or

(b) creating a charge on lands, tenements or hereditaments whether or not such charge is expressed to be created by "pledge" or otherwise.

(3) Where a mortgage gives a power of sale to the party taking the security or power to enter into receipt of rents and profits or declaring that he is to have the power conferred by law upon mortgagees, such mortgage shall be chargeable with duty as a legal mortgage notwithstanding that it would have been an equitable mortgage had it not contained the power of sale or other provisions specified in this subsection.

81. Direction as to duty in certain cases

(1) A security for the transfer or re-transfer of any stock shall be charged with the same duty as a similar security for a sum of money equal in amount to the value of the stock; and a transfer, assignment or disposition of any such security, and a reconveyance, release, discharge, surrender, re-surrender, warrant to vacate, or renunciation of any such security, shall be charged with the same duty as an instrument of the same description relating to a sum of money equal in amount to the value of the stock.

(2) A security for the payment of any rent charge, annuity, or periodical payments, by way of repayment, or in satisfaction or discharge of any loan, advance, or payment intended to be so repaid, satisfied, or discharged, shall be charged with the same duty as a similar security for the payment of the sum of money so lent, advanced or paid.

(3) A transfer of a duly stamped security, and a security by way of further charge for money or stock, added to money or stock previously secured by a duly stamped instrument, shall not be charged with any duty by reason of its containing any further or additional security for the money or stock transferred or previously secured, or the interest or dividends thereof, or any new covenant, proviso, power, stipulation, or agreement in relation thereto, or any further assurance of the property comprised in the transferred or previous security.

(4) An instrument chargeable with ad valorem duty as a mortgage shall not be charged with any further duty by reason of the equity of redemption in the mortgaged property being thereby conveyed or limited in any other manner than to a purchaser, or in trust for, or according to the direction of, a purchaser.

82. Security for future advances, how to be charged

(1) A security for the payment or repayment of money to be lent, advanced, or paid, or which may become due upon an account current, either with or without money previously due, shall be charged, where the total amount secured or to be ultimately recoverable is in any way limited, with the same duty as a security for the amount so limited.

(2) Where such total amount is unlimited, the security shall be available for such an amount only as the ad valorem duty impressed thereon extends to cover, but where any advance or loan is made in excess of the amount covered by that duty, the security shall, for the purposes of stamp duty, be deemed to be a new and separate instrument, bearing date on the day on which the advance or loan is made:

Provided that no money to be advanced for the insurance of any property comprised in the security against damage by fire, or for keeping up any policy of life insurance comprised in the security, or for effecting in lieu thereof any new policy, or for the renewal of any grant or lease of any property comprised in the security upon the dropping of any life wherein the property is held, shall be reckoned as forming part of the amount in respect whereof the security is chargeable with ad valorem duty.

Notarial acts

83. Duty on notarial acts may be denoted by adhesive stamps

The duty upon a notarial act and upon the protest by a notary public of a bill of exchange or promissory note may be denoted by an adhesive stamp which shall be cancelled by the notary.

Policies of insurance

84. Interpretation

For the purposes of this Act, unless the context otherwise requires—

“policy of insurance” includes every writing other than cover notes, slips or other instruments usually made in anticipation of the issue of formal policy of marine insurance, and instruments embodying alterations of the terms or conditions of any formal policy of marine insurance whereby any contract of insurance is made or agreed to be made, or is evidenced, and the expression “insurance” includes assurance; [1961 No. 65.]

“policy of life insurance” means a policy of insurance upon any life or lives or upon any event or contingency relating to or depending upon any life or lives except a policy of insurance against accident;

“policy of insurance against accident” means a policy of insurance for any payment agreed to be made upon the death of any person only from accident or violence or otherwise than from a natural cause, or as compensation for personal injury, and includes any notice or advertisement in a newspaper or other publication which purports to insure the payment of money upon the death of or injury to the holder or bearer of the newspaper or publication containing the notice only from accident or violence, or otherwise than from a natural cause; and also includes policies of insurance or indemnity against liability

incurred by employers in consequence of claims made upon them by workmen who have sustained personal injury where the annual premium on such policies does not exceed four naira;

“policy of insurance for any payment agreed to be made during the sickness of any person or his incapacity from personal injury” includes any notice or advertisement in a newspaper or other publication which purports to insure such payment;

“policy of insurance for any payment agreed to be made by way of indemnity against loss or damage of or to any property” includes any notice or advertisement in a newspaper or other publication which purports to insure such payment;

“policy of marine insurance” means any formal contract whereby an insurer undertakes to indemnify an assured against losses incident to marine adventure, and includes any contract relating to insurance of a ship or the machinery or fittings belonging to the ship whilst under construction or repair or on trial.

85. Stamp on policy of insurance against accident and sickness

A policy of insurance against accident is not to be charged with any further duty than six kobo by reason of the same extending to any payment to be made during sickness or incapacity from personal injury.

[28 of 1941.]

86. Duty on policy of marine insurance

A policy of marine insurance shall be charged with the duty prescribed in the Schedule to this Act.

87. Penalty for not making out policy of insurance or making any policy not stamped

Any person who—

(a) receives or takes credit for, any premium or consideration for any insurance and does not within one month after receiving, or taking credit for, the premium or consideration, make out and execute a duly stamped policy of insurance; or

(b) makes, executes or delivers out, or pays or allows in account, or agrees to pay or allow in account, any money upon or in respect of any policy of insurance which is not duly stamped,

shall be guilty of an offence and liable on conviction to a fine of forty naira.

88. Assignment of policy of life assurance to be stamped before payment of money assured

(1) No assignment of a policy of life assurance shall confer on the assignee therein named, his executors, administrators, or assigns, any right to sue for the money assured or secured thereby, or to give a valid discharge for the same, or any part thereof, unless the assignment is duly stamped, and no payment shall be made to any person claiming under any such assignment unless the same is duly stamped.

(2) If any payment is made in contravention of this section the duty not paid upon the assignment together with the penalty payable on stamping the same, shall be a debt due to the Government of the Federation from the person by whom the payment is made.

Receipts

89. Provisions as to duty upon receipts

(1) For the purposes of this Act, the expression "receipt" includes any note, memorandum, or writing whereby any money amounting to four naira or upwards, or any bill of exchange or promissory note for the money amounting to four naira or upwards, is acknowledged or expressed to have been received or deposited or paid, or whereby any debt or demand, or any part of a debt or demand, of the amount of four naira or upwards, is acknowledged to have been settled, satisfied, or discharged, or which signifies or imports any such acknowledgement, and whether the same is or is not signed with the name of any person.

(2) The duty upon a receipt may be denoted by an adhesive stamp which is to be cancelled by the person by whom the receipt is given before he delivers it out of his hands.

90. Certain forms of receipts not dutiable

Neither the name of a banker (whether accompanied by words of receipt or not) written in the ordinary course of his business as a banker upon a bill of exchange or promissory note duly stamped, nor the name of a payee written upon a draft or order, if payable to order, shall constitute a receipt chargeable with duty.

91. Terms upon which receipts may be stamped after execution and used in evidence unstamped

(1) A receipt given without being stamped may be stamped with an impressed stamp on the following terms— [28 of 1941.]

(a) within 28 days after it has been given, on payment of the duty and a penalty of four naira;

(b) after 28 days, but within 56 days, on payment of the duty and a penalty of twenty naira,

and shall not in any other case be stamped with an impressed stamp.

(2) The payment of the penalty under subsection (1) of this section shall be certified on the face of the receipt under the hand of a commissioner.

(3) Where in any legal proceedings or before any arbitrator or referee a receipt is inadmissible by reason of it not being duly stamped, the officer presiding over the court, the arbitrator or referee may, having regard to the illiteracy and ignorance of the party tendering the receipt in evidence, admit the receipt upon payment of a penalty of four naira and the officer presiding over the court, the arbitrator or referee, as the case may be, shall note the payment of the penalty upon the face of the receipt so admitted and a receipt shall be given for the same.

(4) A receipt so admitted in evidence shall not be deemed to be duly stamped but shall be available for the purposes of the suit in which it is tendered in evidence and for that purpose only.

(5) Where a person has been permitted under this subsection to tender a receipt not duly stamped upon payment of the penalty of four naira, such person may recover the said sum of four naira from the person whose duty it was to stamp the receipt at the time when it was first issued.

(6) Nothing contained in this section shall relieve any person from any other penalty incurred by him in relation to such receipt.

92. Penalty for offences in reference to receipts

If any person—

- (a) gives a receipt liable to duty and not duly stamped; or
- (b) in any case where a receipt would be liable to duty, refuses to give a receipt duly stamped; or
- (c) upon a payment to the amount of four naira or upwards, gives a receipt for a sum not amounting to four naira, or separates or divides the amount paid with the intent to evade the duty,

he shall be guilty of an offence and liable on conviction to a fine of twenty naira.

Settlements

93. Provisions as to settlement of policy or security

Where any money which may become due or payable upon any policy of life insurance, or upon any security not being a marketable security, is settled or agreed to be settled, the instrument whereby the settlement is made or agreed to be made shall be charged with ad valorem duty in respect of that money:

Provided that—

- (a) where, in the case of a policy, no provision is made for keeping up the policy, the ad valorem duty shall be charged only on the value of the policy at the date of the instrument;
- (b) if in any such case, the instrument contains a statement of the said value, and is stamped in accordance with the statement, it shall, so far as regards the policy, be deemed duly stamped, unless or until it is shown that the statement is untrue, and that the instrument is in fact insufficiently stamped.

94. Settlements; when not to be charged as securities

An instrument chargeable with ad valorem duty as a settlement in respect of any money, stock, or security shall not be charged with any further duty by reason of containing provision for the payment or transfer of the money, stock, or security, or by reason of containing, where the money, stock, or security is in reversion or is not paid or transferred upon the execution of the instrument, provision for the payment by the person entitled in possession to the interest or dividends of the money, stock, or security, during the continuance of such possession, of any annuity or yearly sum not exceeding interest at the rate of eight per cent per annum upon the amount or value of the money, stock or security.

95. Where several instruments, one only to be charged with ad valorem duty

(1) Where several instruments are executed for effecting the settlement of the same property, and the ad valorem duty chargeable in respect of the settlement of the property exceeds one naira, only one of the instruments shall be charged with the ad valorem duty.

(2) Where a settlement is made in pursuance of a previous agreement upon which ad valorem settlement duty exceeding one naira has been paid in respect of any property, the settlement shall not be charged with ad valorem duty in respect of the same property.

(3) In each of the aforesaid cases the instruments not chargeable with ad valorem duty shall be charged with the duty of one naira.

Share warrants

96. Penalty for issuing share warrant not duly stamped

If a share warrant or any instrument to bearer issued by or on behalf of any company or body of persons formed or established in Nigeria and having a like effect as a share warrant or any stock certificate to bearer is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the company, shall be guilty of an offence and liable on conviction to a fine of one hundred naira.

Stock certificates to bearer

97. Meaning of stock certificate to bearer

For the purposes of this Act, the expression "stock certificate to bearer" includes every stock certificate to bearer issued after the coming into operation of this Act, under the provisions of the Companies and Allied Matters Act, or of any other enactment authorising the creation of debenture stock, corporation stock, municipal stock or funded debt, by whatever name known, and also includes any instrument to bearer issued by or on behalf of any company or body of persons formed or established in Nigeria and having a like effect as such a stock certificate to bearer. [Cap. C20.]

98. Penalty for neglecting to cancel stock certificate upon registration

(1) Where the holder of a stock certificate to bearer or an instrument to bearer chargeable as a stock certificate to bearer has been entered on the register of any local authority or corporation or company or body of persons formed or established in Nigeria, as owner of the share of stock described in the certificate, the certificate shall be forthwith cancelled so as to be incapable of being reissued to any person.

(2) Every person by whom a stock certificate to bearer or an instrument to bearer chargeable as a stock certificate to bearer is issued without being duly stamped, shall be guilty of an offence and liable on conviction to a fine of one hundred naira.

Warrant for goods

99. Meaning and provisions as to warrants for goods

(1) For the purposes of this Act, the expression "warrant for goods" means any document or writing, being evidence of the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods, wares of merchandise lying in any warehouse or dock, or upon any wharf, and signed or certified by or on behalf of the person having the custody of the goods, wares or merchandise.

(2) The duty upon a warrant for goods may be denoted by an adhesive stamp, which shall be cancelled by the person by whom the instrument is made, executed or issued.

(3) Every person who makes, executes or issues, or receives, or takes by way of security or indemnity, any warrant for goods not being duly stamped, shall be guilty of an offence and liable on conviction to a fine of forty naira.

PART III

Supplemental

Duty on capital of companies

100. Charge of duty on capital of limited liability companies

(1) A statement of the amount which shall form the nominal share capital of any company to be registered with limited liability and a statement of the amount of any increase of registered capital of any company, shall be delivered to the Corporate Affairs Commission established under the Companies and Allied Matters Act. [L.N. 112 of 1964. Cap. C20.]

(2) The statements referred to in subsection (1) of this section shall be charged with an ad valorem duty of one naira for every two hundred naira and any fraction of two hundred naira over any multiple of two hundred naira of the amount of such capital or increase of capital, as the case may be.

(3) The statement of the amount of any increase of registered capital which is required to be delivered to the Corporate Affairs Commission under subsection (1) of this section shall be delivered duly stamped with the duty charged thereon within fifteen days after the passing of the resolution by which the registered capital is increased, and, in default of that delivery, the duty, with interest thereon at the rate of five per cent per annum from the passing of the resolution, shall be a debt to the Government of the Federation recoverable from the company.

101. Charge of duty on capital of companies with limited liability otherwise than under Cap. C20

(1) Where, by virtue of any letters patent or by any Act or Law or by any other lawful authority, the liability of holders of shares in the capital of any corporation or company is limited otherwise than by registration with limited liability under the law in that behalf, a statement of the amount of nominal share capital of the corporation or company shall be delivered by the corporation or the company to the Corporate Affairs Commission within one month after the date of the letters patent or the passing of the Act or Law or the granting of the authority; and in case of any increase of the amount of the nominal share capital of any corporation or company being authorised by any letters patent, Act or Law or other authority, a statement of the amount of such increase shall be delivered by the corporation or company to the Corporate Affairs Commission within the like period. [L.N. 131 of 1954.]

(2) The statements referred to in subsection (1) of this section shall be charged with an ad valorem duty of one naira for every two hundred naira and any fraction of two hundred naira over any multiple of two hundred naira of the amount of such capital or increase of capital, as the case may be.

(3) The statements to be delivered in accordance with subsection (1) of this section shall be delivered with the duty charged thereon duly paid and in default of that delivery, the corporation or company shall pay to the Minister or Governor, as the case may be, a sum equal to ten per cent per annum upon the amount of duty payable, and a like penalty for every month after the first month during which the default shall continue.

102. Duty on loan capital

(1) Where any corporation, company or body of persons formed or established in Nigeria propose to issue any loan capital, they shall, before the issue thereof, deliver to the Corporate Affairs Commission a statement of the amount proposed to be secured by the issue. [L.N. 112 of 1964.]

(2) Subject to the provisions of this section, every such statement shall be charged with ad valorem duty of 25 kobo for every 200 naira and any fraction of 200 naira over any multiple of 200 naira of the amount proposed to be secured by the issue, and the amount of the duty shall be a debt due to the Government of the Federation.

(3) The duty under this section shall not be charged to the extent to which it is shown to the satisfaction of the Corporate Affairs Commission that the duty in respect of a mortgage or marketable security has been paid on any trust deed or other document securing the loan capital proposed to be issued.

(4) If any corporation, company or body of persons neglect to deliver a statement, or fails to pay the duty in compliance with the provisions of this section, that corporation, company or body of persons shall be liable to pay the Government of the Federation, in addition to the duty, a sum equal to ten per cent upon the amount of the duty, and a like sum for every month after the first month during which the neglect or failure continues.

Definition of "loan capital"

(5) In this Act and in section 102 of this Act, "loan capital" means any debenture stock, other stock or funded debt by whatever name known or any capital raised by any corporation, company or body of persons formed or established in Nigeria, which is borrowed, or has the character of borrowed money, whether it is in the form of stock or in any other form, but does not include any overdraft at the bank or other loan raised for a merely temporary purpose for a period not exceeding twelve months.

103. Reduction of duty on loan capital issued for the purpose of the conversion or consolidation of existing capital

(1) Where it is shown to the satisfaction of the Corporate Affairs Commission that the loan capital issued by any corporation, company or body of persons, in respect of which a statement is required to be issued under section 102 of this Act, has been wholly or in part applied for the conversion or consolidation of then existing loan capital, that corporation, company or body of persons, as the case may be, shall be entitled to repayment in respect of the duty charged on the statement so delivered at the rate of twenty kobo for every 200 naira of the capital to which the statement relates which is so shown to have been applied for the purpose of the conversion or consolidation of the then existing loan capital; but this section shall not apply to any duty payable in respect of a mortgage or marketable security which has been paid on any trust deed or other document securing the loan capital which has been issued.

(2) If it is represented to the Corporate Affairs Commission by such corporation, company or body of persons that loan capital about to be issued by them is to be applied, in whole or in part, for the purpose of the conversion or consolidation of existing loan capital, the Corporate Affairs Commission may postpone the time or the delivery of the statement and the payment of duty under section 102 of this Act until the capital has been issued or until such other time as the Corporate Affairs Commission may

think fit for the purpose of enabling the payment and repayment of the duty to take place as far as practicable as one transaction.

(3) The repayment shall be made by the Accountant-General upon receipt from the Corporate Affairs Commission of such particulars as the Minister may generally or in any particular case require to be given.

104. Relief from capital and transfer duty in case of reconstructions or amalgamation of companies

(1) If in connection with a scheme for the reconstruction of any company or companies or the amalgamation of any companies it is shown to the satisfaction of a commissioner that there exist the following conditions, that is to say— [L.N. 131 of 1954. L.N. 112 of 1964.]

(a) that a company with limited liability is to be registered, or that since the commencement of this Act a company has been incorporated by letters patent, Act or Law, or the nominal share capital of a company has been increased;

(b) that the company (in this section referred to as “the transferee company”) is to be registered or has been incorporated or has increased its capital with a view to the acquisition either of the undertaking of, or of not less than ninety per cent of the issued capital of, any particular existing company;

(c) that the consideration for the acquisition (except such part thereof as consists in the transfer to or discharge by the transferee company of liabilities of the existing company) consists as to not less than ninety per cent thereof—

(i) where an undertaking is to be acquired, in the issue of shares in the transferee company to the existing company or to holders of shares in the existing company; or

(ii) where shares are to be acquired, in the issue of shares in the transferee company to the holders of shares in the existing company in exchange for the shares held by them in the existing company,

then, subject to the provisions of this section, the provisions of subsections (2) and (3) of this section shall have effect with respect to the relief from capital and transfer duty as a result of the reconstruction or amalgamation of the company or companies, as the case may be.

(2) The nominal share capital of the transferee company, or the amount by which the capital of the transferee company has been increased, as the case may be, shall, for the purpose of computing the duty chargeable in respect of that capital, be treated as being reduced by either—

(a) an amount equal to the amount of the share capital of the existing company or, in the case of the acquisition of a part of an undertaking, equal to such proportion of the said share capital as the value of that part of the undertaking bears to the whole value of the undertaking; or

(b) the amount to be credited as paid up on the shares to be issued as such consideration as aforesaid and on the shares (if any) to be issued to creditors of the existing company in consideration of the release of debts (whether secured or unsecured) due or accruing due to them from the existing company or of the assignment of such debts to the transferee company,

whichever amount is the less.

(3) Duty under the heading “Conveyance or Transfer Sale” in the Schedule to this Act shall not be chargeable on any instruments made for the purposes of or in connection with the transfer of the undertaking or shares or on any instrument made for the purposes of or in connection with the assignment to the transferee company of any debts, secured or unsecured, of the existing company, nor shall any such duty be chargeable under section 62 of this Act on a copy of any Act or Law or on any instrument vesting, or relating to the vesting of, the undertaking or shares in the transferee company:

Provided that—

(a) no such instrument shall be deemed to be duly stamped unless either it is stamped with the duty to which it would but for this section be liable or it has, in accordance with the provisions of section 16 of this Act, been certified by the commissioner either that it is not chargeable with any duty or that it is duly stamped; and

(b) in the case of an instrument made for the purposes of or in connection with a transfer to a company within the meaning of the Companies and Allied Matters Act, the provisions of this subsection shall not apply unless the instrument is either— [Cap. C20.]

(i) executed within a period of twelve months from the date of the registration of the transferee company or the date of the resolution for the increase of the nominal share capital of the transferee company, as the case may be; or

(ii) made for the purposes of effecting a conveyance or transfer in pursuance of an agreement which has been filed, or particulars of which have been filed with the Corporate Affairs Commission within the said period of twelve months; and

(c) the foregoing provision with respect to the release and assignment of debts of the existing company shall not, except in the case of debts due to banks or to trade creditors, apply to debts which were incurred less than two years before the proper time for making a claim for exemption under this section.

(4) For the purposes of a claim for exemption under subsection (3) of this section, a company which has, in connection with a scheme of reconstruction or amalgamation, issued any unissued share capital shall be treated as if it had increased its nominal share capital.

(5) A company shall not be deemed to be a particular existing company within the meaning of this section unless it is provided by the memorandum of association of, or the letters patent, Act or Law incorporating the transferee company that one of the objects for which the company is established is the acquisition of the undertaking of, or shares in, the existing company or unless it appears from the resolution, Act or Law or other authority for the increase of the capital of the transferee company that the increase is authorised for the purpose of acquiring the undertaking of, or share in, the existing company.

(6) In a case where the undertakings of or shares in two or more companies are to be acquired, the amount of the reduction to be allowed under this section, in respect of the duty chargeable in respect of the nominal share capital or the increase of the capital of a company, shall be computed separately in relation to each of those companies.

(7) Where a claim is made for exemption under this section, the commissioner may require the delivery to him of a statutory declaration in such form as he may direct, made in Nigeria by a legal practitioner, and of such further evidence (if any) as the commissioner may reasonably require.

(8) If—

(a) where any claim for exemption from duty under this section has been allowed, it is subsequently found that any declaration or other evidence furnished in support of the claim was untrue in any material particular, or that the conditions specified in subsection (1) of this section are not fulfilled in the reconstruction or amalgamation as actually carried out; or

(b) where shares in the transferee company have been issued to the existing company in consideration of the acquisition, the existing company within a period of two years from the date, as the case may be, of the registration or incorporation, or of the authority for the increase of the capital, of the transferee company ceases, otherwise than in consequence of reconstruction, amalgamation or liquidation, to be the beneficial owner of the shares so issued to it; or

(c) where any such exemption has been allowed in connection with the acquisition by the transferee company of shares in another company, the transferee company within a period of two years from the date of its registration or incorporation or of the authority for the increase of its capital, as the case may be, ceases, otherwise than in consequence of reconstruction, amalgamation or liquidation, to be the beneficial owner of the shares so acquired,

the exemption shall be deemed not to have been allowed, and an amount equal to the duty remitted shall become payable forthwith, and shall be recoverable from the transferee company as a debt due to the Government of the Federation, together with interest thereon at the rate of five per cent per annum in the case of duty remitted under subsection (2) of this section from the date of the registration or incorporation of the transferee company or the increase of its capital, as the case may be, and in the case of duty remitted under subsection (3) of this section of the said subsection from the date on which it would have become chargeable if this section had not been passed.

(9) If in the case of any scheme of reconstruction or amalgamation, a commissioner is satisfied that at the proper time for making a claim for exemption from duty under subsections (2) and (3) of this section there were in existence all the necessary conditions for such exemption other than the condition that not less than ninety per cent of the issued share capital of the existing company would be acquired by the transferee company, the commissioner may, if it is proved to his satisfaction that not less than ninety per cent of the issued capital of the existing company has under the scheme been acquired within a period of six months from the earlier of the two following dates, that is to say—

(a) the last day of the period of one month after the first allotment of shares made for the purposes of the acquisition; or

(b) the date on which an invitation was issued to the shareholders of the existing company to accept shares in the transferee company,

and on production of the instruments on which the duty paid has been paid, direct repayment to be made of such an amount of duty as would have been remitted if the said conditions had been originally fulfilled.

Definitions

(10) In this section, unless the context otherwise requires—

(a) references to the undertaking of an existing company include references to a part of the undertaking of an existing company; and

(b) the expression “shares” includes stock.

105. Relief from transfer duty in case of transfer of property as between associated companies

(1) Duty under the heading “Conveyance or Transfer on Sale” in the Schedule to this Act shall not be chargeable on an instrument to which this section applies: [28 of 1941.]

Provided that no such instrument shall be deemed to be duly stamped unless either it is stamped with the duty to which it would but for this section be liable, or it has in accordance with the provisions of section 15 been certified by a commissioner either that it is not chargeable with any duty or that it is duly stamped.

(2) This section applies to any instrument as respects which it is shown to the satisfaction of the commissioner that the instrument was not executed in pursuance of or in connection with an arrangement whereunder—

(a) the consideration for the transfer or conveyance was to be provided directly or indirectly by a person other than a company which at the time of the execution of the instrument was associated with either the transferor or the transferee; or

(b) the beneficial interest in the property was previously conveyed or transferred directly or indirectly by such person as aforesaid.

(3) For the purpose of this section, a company shall be deemed to be associated with another company if, but not unless, both are companies with limited liability, and either—

(a) one of them is the beneficial owner of not less than ninety per cent of the issued share capital of the other; or

(b) not less than ninety per cent of the issued share capital of each of them is in the beneficial ownership of a third company with limited liability.

Miscellaneous

106. Innocent person suffering loss may recover against guilty person

Where any person, by the production of an unstamped or insufficiently stamped instrument or otherwise, renders himself subject to a fine, penalty or forfeiture and is made thereby to suffer any fine, penalty or forfeiture but is not the person whose duty it was by law originally to provide for the stamping of the document, such first mentioned person shall upon proof to the satisfaction of a court that he was not the person originally responsible for having the document stamped and that he has thereby suffered a fine, penalty or forfeiture, be entitled to obtain judgment for the amount to which he has been penalised, together with costs, against the person whose duty it originally was to have the document stamped.

107. Power to make regulations for compounding duty

Where the collection of duty or the stamping of instruments according to the provisions of this Act is impracticable or inexpedient, or where such collection or stamping causes undue inconvenience to trade or business or where the exercise of the power conferred by this section is in the interest of Nigeria or of a State thereof, the President or Governor, as the case may be, may make regulations— [L.N. 131 of 1954.]

(a) for compounding any duty; or

(b) for delivery of accounts by, and collecting duty from, the persons making or issuing the instruments upon which the duty is charged.

108. Conditions and agreements as to duty void

Every condition of sale framed with the view of precluding objection or requisition upon the ground of absence or insufficiency of stamp upon any instrument executed after the commencement of this Act, and every contract, arrangement, or undertaking for assuming the liability on account of absence or insufficiency of stamp upon any such instrument or indemnifying against such liability, absence or insufficiency, shall be void.

109. Provision for remission of duty in certain cases

Where it is shown to the satisfaction of the President or Governor that duty has been paid on an instrument in Nigeria in addition to stamp duty already paid elsewhere, the President or Governor, as the case may be, may, if he considers it advisable in the interest of Nigeria or of the State, as the case may be, to do so, authorise a refund of the duty paid in Nigeria, or such portion thereof as may to him seem fit. [L.N. 131 of 1954.]

110. Duty and debts recoverable with fines and penalties

Proceedings for the recovery of any duty imposed by this Act or for the recovery of any debt due to the Government of the Federation under this Act may be included in any proceedings for the recovery of a fine or penalty under this Act.

111. Duties and fines may be recovered summarily

All duties, fines, penalties and debts due to the Government of the Federation imposed by this Act shall be recoverable in a summary manner in the name of the Attorney-General of the Federation or of the State. [L.N. 131 of 1954. L.N. 112 of 1964.]

112. Fixed penalties

The amount to which any person is declared to be liable in respect of any fine or penalty and the amount due as a debt to the Government of the Federation under this Act shall not, except as hereinafter provided, be subject to any mitigation. [L.N. 112 of 1964.]

113. Power to mitigate fines and stay proceedings

(1) The President or Governor, as the case may be, may in his discretion mitigate any fine or penalty or debt due to the Government of the Federation under this Act or stay or compound any proceedings for

recovery thereof and may also after judgment further mitigate or entirely remit any such fine, penalty or debt. [L.N. 131 of 1954.]

(2) The decision of the President or Governor, as the case may be, to stay or compound any proceedings which have been commenced, may be intimated to the court by a law officer or State counsel or some person on behalf of a law officer or State counsel.

114. Fines and penalties recoverable within five years

All proceedings for the recovery of any duty, fine, penalty and debt due to the Government of the Federation imposed by this Act, may be commenced or prosecuted at any time within five years after the offence committed by reason whereof such duty, fine, penalty or debt shall be incurred. [L.N. 112 of 1964.]

115. Power to make regulations relating to stamp duties

In addition to the powers conferred on him by sections 15 and 105 of this Act, the President and the Governor of a State may make regulations relating—

- (a) to the custody of the dies to be used under this Act;
- (b) to the circumstances in which allowance shall be made for spoiled stamps;
- (c) to the accounting for the revenue derived from stamp duties;
- (d) to the substitution of adhesive stamps for impressed stamps, or of impressed stamps for adhesive stamps, or of revenue stamps for postage and revenue stamps;
- (e) to the manner in which and the persons by whom impressed stamps shall be affixed to documents; and
- (f) to the further and better carrying into effect of the objects and purposes of this Act.

116. Schedule may be varied by resolution and order

(1) The National Assembly may by resolution increase, diminish or repeal the duty chargeable under any of the heads specified in the Schedule to this Act in respect of the documents regarding which the Government of the Federation is competent to make laws, and in respect of any other matter within such competence may add new duties or otherwise add to, vary or revoke the Schedule. [L.N. 131 of 1954.]

(2) The House of Assembly of a State may by resolution increase, diminish or repeal the duty chargeable under any of the heads specified in the Schedule in respect of documents regarding which the Government of a State is exclusively competent to make laws, and in respect of any other matter within such exclusive competence may add new duties or otherwise add to, vary or revoke the Schedule.

117. Certain temporary occupation licences not liable to duty under Cap. 126 of the 1923 edition

Whereas doubts have arisen as to whether or not a temporary occupation, licence granted under the Land Use Act previous to the coming into force of this Act is liable to stamp duty under the Stamp Act, it is hereby declared that all such instruments which have not previously been stamped shall be deemed not to have been liable to stamp duty under the said Act. [Cap. L5. Cap. 126 of 1923 Edition.]

118. Repeal of Cap. 126 of 1923 edition and amending Act

The Stamp Act, the Stamp (Amendment) Act, 1928, the Stamp (Amendment) Act, 1931; all Orders in Council made under section 4 of the Stamp Act, all regulations and all appointments made under the Stamp Act are hereby respectively repealed, revoked and cancelled: [Cap. 126 of 1923 Edition.]

Provided that where an instrument has been first executed before the coming into operation of this Act such instrument shall be stamped in accordance with the provisions of the Act hereby repealed.

Schedule

[Section 3, etc.]

[L.N 49 of 1961.]

N k

Admission as a barrister or solicitor 50 00

Exemptions:

Admission as a military advocate under the provisions of the Military Advocates Rules, 1942. (Added by Resolution and Order 2 of 1942).

[Rules of Court 5 of 1952.]

As a notary public 20 00

See Licence and sections 25 and 27

Affidavit, Affirmation and Statutory Declaration

Except where express provision is made as to the manner in which it is to be taken 45

Exemptions:

(1) Affidavit or affirmation made for the immediate purpose of being filed, read, or used in any court in Nigeria, or before any judge or officer of any such court.

(2) Affidavit, affirmation or declaration made upon a requisition of a commissioner under this Act, or a commissioner of any public board of revenue in Nigeria or any of the officers acting under them, or required by any law of Nigeria.

(3) Affidavit, affirmation or declaration which may be required by the Central Bank of Nigeria to prove the death of any proprietor of any stock transferable there, or to identify the person of any such proprietor, or to remove any other impediment to the transfer of any such stock.

Agreement or Contract, accompanied with a deposit. See Mortgage and sections 29 and 80.

Agreement for a lease or for any letting. See Lease and section 68.

Agreement for Sale of Property. See Conveyance on Sale and section 58.

Agreement or any Memorandum of an Agreement under hand only and not otherwise specifically charged with any duty, whether the same be only evidence of a contract or obligatory upon the parties from its being a written instrument 15

Exemptions:

(1) Agreement or Memorandum the matter whereof is not of the value of N10.

(2) Agreement or Memorandum for the hire of any labourer, artificer, manufacturer or menial servant.

(3) Agreement, Letter or Memorandum made for or relating to the sale of any goods, wares, or merchandise.

See sections 28, 29 and 30

Agreement, Hire Purchase

Admission as a barrister or solicitor 50 00

If under hand only 15 00

If under seal 3 00

See section 30

Allotment. See Letter of Allotment

Annuity, conveyance in consideration of. See Conveyance on Sale, and section 54.

Purchase of. See Conveyance on Sale, and section 60.

Creation of, by way of security. See Mortgage, and section 81.

Instruments relating to, upon any other occasion, See Bond, Covenant, or Instrument of any kind whatsoever.

Appointment of a new trustee, and Appointment in execution of a power of any property, or of any use, share, or interest in any property, by any instrument not being a will 1 50

See section 65

Appointment of commissioner for taking affidavits and declarations under any Act or Law and of a justice of the peace under the provisions of any Act or

Law relating to magistrates' courts 9 00

[Substituted by L.N. 47 of 1955.]

Appraisalment or Valuation of any property, or of any interest therein, or of the annual value thereof, or of any dilapidations, or of any repairs wanted, or of the materials and labour used or to be used in any building, or of any artificers' work whatsoever.

Where the amount of the appraisalment or valuation – does not exceed N200, for every N50 or fractional part thereof 39

exceeds N200, for every N200 or fractional part thereof 3 00

Exemptions:

(1) Appraisalment or valuation made for, and for the information of, one party only, and not being in any manner obligatory as between parties either by agreement or operation of any law of Nigeria.

(2) Appraisalment or valuation made in pursuance of the order of a court in the exercise of its Admiralty jurisdiction.

[Amended by L.N. 47 of 1955.]

(3) Appraisalment or valuation of property of a deceased person made for the information of an executor or other person required to deliver an affidavit of the estate of such deceased person.

(4) Appraisalment or valuation of any property of a deceased person made for the purpose of ascertaining any duty payable thereon.

(5) Appraisalment or valuation made by or on behalf of a local authority and in connection with the raising of the revenues of a local authority.

Apprenticeship, instrument of 39

See section 33

Assignment

By way of security, or of any security. See Mortgage.

Upon a sale, or otherwise. See Conveyance.

Assurance. See Policy.

Attorney, Letter or Power of. See Letter of Attorney.

Warrant of. See Warrant of Attorney.

Award.

(1) Where the amount or value of the matter in dispute does not exceed N200, for every N50 or fractional part of N50 thereof 39

(2) Where the amount or value exceeds N200, for every N200 or fractional part of N200 thereof
3 00

Bill of Exchange

Bill of Exchange payable on demand or at sight or on presentation or within three days after date or sight 02

Bill of Exchange of any other kind whatsoever (except a bank note) and Promissory Note of any kind whatsoever (except a bank note) drawn, or expressed to be payable, or actually paid, or endorsed, or in any manner negotiated in Nigeria.

Where the amount or value of the money for which the bill or note is drawn or made does not exceed N20 02

exceeds N20 but does not exceed N50 05

exceeds N50 but does not exceed N100 10

exceeds N100 but does not exceed N150 15

exceed N50 but does not exceed N200 20

exceeds N200, for every N50 and also for any fractional part of N50 of such amount or value
05

Bill of Exchange of any other kind whatsoever (except a bank note) drawn and expressed to be payable out of Nigeria when paid, or endorsed, or in any manner negotiated in Nigeria. Where the amount or value of the money for which the bill or note is drawn or made does not exceed N20

02

exceeds N20 but does not exceed N50 05

exceeds N50 but does not exceed N200

20

exceeds N200, for every N50 and also for any fractional part of N50 of such amount or value

05

05

Exemptions:

(1) Letter of credit granted in Nigeria authorising drafts to be drawn in Nigeria for payment out of Nigeria.

(2) Bill or note issued by the Central Bank of Nigeria.

(3) Letter written by a firm carrying on the business of banking in Nigeria to any other such person directing the payment of any sum of money, the same not being payable to bearer or to order, and such letter not being sent or delivered to the person to whom payment is to be made or to any person on his behalf.

(4) Coupon or warrant for interest attached to and issued with any security, or with an agreement or memorandum for the renewal or extension of time for payment of a security, or issued in a sheet, either with the security or subsequently.

See sections 36–38 and 40–43

(5) An order for the payment of money weekly, monthly or at any other stated periods to the Nigerian Red Cross Society.

[(5) added by 2 of 1945.]

Bill Of Lading of or for any goods, merchandise, or effect to be exported

09

See section 44

Exemptions:

The master's copy.

Bill of Sale.

Absolute. See Conveyance on sale.

By way of security. See Mortgage. See section 45.

Bonds.

Bond for securing the payment or repayment of money or the transfer or re-transfer of stock. See Mortgage, and Marketable Security.

Bond in relation to any annuity upon the original creation and sale thereof. See Conveyance on Sale and section 60.

Bond, Covenant, or Instrument of any kind whatsoever.

(1) Being the only or principal or primary security for any annuity (except upon the original creation thereof by way of sale or security, and except a superannuation annuity), or for any sum or sums of

money at stated periods, not being interest for any principal sum secured by a duly stamped instrument, nor rent reserved by a lease.

For a definite and certain period so that the total amount to be ultimately payable can be ascertained.
The same ad valorem duty as a mortgage or a bond for such total amount.

For the time of life or any other indefinite period—

For every N10, and also for any fractional part of N10, of the annuity or sum periodically payable
75

(2) Being a collateral or auxiliary or additional or substituted security for any of the above-mentioned purposes where the principal or primary instrument is duly stamped.

Where the total amount to be ultimately payable can be ascertained. The same ad valorem duty as a mortgage or a bond of the same kind for such total amount.

In any other case—

For every N10, and also for any fractional part of N10, of the annuity or sum periodically payable
15

(3) Being a grant or contract for payment of a superannuation annuity, that is to say a deferred life annuity granted or secured to any person in consideration of annual premiums payable until he attains a specified age and so as to commence on his attaining that age.

For every N10 and also for any fractional part of N10 of the annuity 15

Bond given pursuant to the directions of any Act or of a commissioner, or of the Accountant-General, or any of their officers, for or in respect of any of the duties or revenue of Nigeria or for preventing frauds or evasions thereof, or for any other matter or thing relating thereto.

Where the penalty of the bond does not exceed N200 75

In any other case 1 50

[Substituted by Resolution and Order 1 of 1951.]

Exemptions:

Bond given as aforesaid upon, or in relation to, the receiving or obtaining, or for entitling any person to receive or obtain, any drawback of any duty or revenue, for or in respect of any goods, wares or merchandise exported from Nigeria and bonds given in respect of the removal, transshipment, exportation or shipment as stores of any goods.

Bond on obtaining letters of administration or on the sealing of a probate or letters of administration under the Probates (Re-sealing) Act 75

[Cap. P31.]

Exemptions:

Bond given by any person where the estate to be administered does not exceed N200 in value.

Bond of any kind whatsoever not specifically charged with any duty.

Where the amount limited to berecoverable does not exceed N600. The same ad valorem duty as a mortgage or a bond for the amount limited.

In any other case 3 00

Bond accompanied with a deposit of title deeds, for making a mortgage or other security on any estate or property therein comprised. See Mortgage, and section 80.

Bond, Declaration, or other Deed or Writing for making redeemable any disposition apparently absolute, but intended only as a security. See Mortgage, and sections 29 and 80.

Capital duty.

On the nominal share capital or any increase thereof—

Limited liability companies registered under the Companies and Allied Matters Act, and corporations or companies with limited liability otherwise than under the Companies and Allied Matters Act—

For every N200, and also for any fractional part of N200 of such nominal share capital 1 50

See section 100, 101, 104 and 105

On loan capital—

For every N200, and also for any fractional part of N200 of the amount proposed to be secured
39

See sections 102–105

Certificate from the Minister or other officer to the effect that there is no consular representative of any particular country or nation mentioned in the certificate 1 50

Certificate from a commissioner—

For denoting under section 15, or that the full and proper duty has been paid upon the original of any document under section 66 39

That an instrument is not chargeable with duty, or that it is duly stamped or the amount of duty with which it is chargeable in pursuance of sections 16, 104 or 105 75

Exemptions:

Any certificates relating to any instruments the subject of general exemption (3) or (4).

[Added by No. 28 of 1941.]

See section 58

Charter-Party, or any agreement for or relating to the freight or conveyance of any goods or effects on board a ship. 09

Cheque, See Bill of Exchange.

Contract. See Agreement.

Contract notes.

Contract note for or relating to the sale or purchase of any stock or marketable security—

Where the value of the stock or marketable security is less than N10 03

Where the value of the stock or marketable security is N10 and does not exceed N200
16

exceeds N200, for every N200 or part thereof 16

See sections 49, 50, 51

Continuation Notes. See section 49 (2).

Option Notes. See section 51 (1).

Contract Note following a duly stamped Option Note.

See section 51 (2)

Conveyance or Transfer on Sale, of any property.

For every N50, and also for every fractional part of N50, of the amount or value of the consideration for the sale 75

See sections 52–64

Conveyance or Transfer by way of security of any property or of any security. See Mortgage and sections 2 and 76–78.

Conveyance or Transfers operating as voluntary dispositions inter vivos. See section 23 and 63.

Conveyance or Transfer of any kind not hereinbefore described 3 00

See section 65

Counterpart. See Duplicate.

Covenant for securing the payment or repayment of money, or the transfer or re-transfer of stock. See Mortgage.

Covenant in relation to any annuity upon the original creation and sale thereof. See Conveyance on Sale, and section 60.

Covenant in relation to any annuity (except upon the original creation and sale thereof) or to other periodical payments. See Bond, Covenant.

Covenant. Any separate deed of covenant (not being an instrument chargeable with ad valorem duty as a conveyance on sale or mortgage) made on the sale or mortgage of any property, and relating solely to the conveyance or enjoyment of, or the title to, the property sold or mortgaged, or to the production of the muniments of title relating thereto, or to all or any of the matters aforesaid—

Where the ad valorem duty in respect of the consideration or mortgage money does not exceed N2.
A duty equal to the amount of such ad valorem duty.

In any other case 3 00

Debenture for securing the payment or repayment of money or the transfer or re-transfer of stock. See Mortgage, and Marketable Security.

Declaration of any use of trust of or concerning any property by any writing, not being a will, or an instrument chargeable with ad valorem duty as a settlement 3 00

Declaration (Statutory). See Affidavit.

Deed of any kind whatsoever, not described in this Schedule 3 00

Defeasance. Instrument of defeasance of any conveyance, transfer apparently absolute but intended only as a security for money or stock. See Mortgage and section 80.

In respect of Marketable Securities under hand only, see Agreement and section 29.

Demise. See Lease.

Deposit of title deeds. See Mortgage and section 80.

Draft for money. See Bill of Exchange.

Duplicate or Counterpart of any instrument chargeable with any duty—

Where such duty does not amount to 75k. The same duty as the original instrument.

In any other case 3 00

[Amended by 28 of 1941.]

Fidelity Bond. Where the amount limited to be recoverable does not exceed N600. The same ad valorem duty as a bond for the amount limited.

In any other case 3 00

Further Charge of Further Security, See Mortgage and section 80.

Guarantee. Other than a Fidelity Bond, see Agreement and Bond.

Hire Purchase Agreement. See Agreement, Hire Purchase and section 30.

Insurance. See Policy.

Lease.

(1) For any definite term less than a year—

- (a) where the rent does not exceed the rate of N50 a year 09
- (b) where the rent exceeds the rate of N50 a year 39

(2) For any other definite term or for any indefinite terms—

- (a) for every N50 and also for every fractional part of N50 of the rent for the year.
 - (i) If the term is definite and does not exceed seven years 39
 - exceeds seven years and does not exceed twenty-one years 1 50
 - exceeds twenty-one years 3 00
 - (ii) if the term is indefinite 3 00
 - (iii) where the consideration, or any part of the consideration, moving either to the lessor or

to any other person, consists of any money, stock or security:

in respect of such consideration The same duty as a conveyance on a sale for the same consideration

(3) Of any other kind whatsoever not hereinbefore described 3 00

(4) A lease by the Government of State lands shall be assessed as if there was no revision clause and the initial rent was the rent payable throughout the term.

See also sections 68–71

Letter of Allotment and Letter of Renunciation, or any other document having the effect of a letter of allotment—

(1) Of any share or any fractional part thereof of any company or proposed company.

(2) In respect of any loan raised or proposed to be raised, by any company or proposed company, or by any municipal body or corporation.

(3) Issued or delivered in Nigeria, of any share or any fractional part thereof of any imperial, foreign or colonial company or proposed company.

If the amount allotted or to which the letter of renunciation relates— is less than N10

03

is N10 or over 16

And Scrip Certificate, Scrip, or other document—

(1) entitling any person to become the proprietor of any share or any fractional part thereof of any company or proposed company 03

(2) issued or delivered in Nigeria, and entitling any person to become the proprietor of any share or any fractional part thereof of any foreign or Commonwealth company or proposed company

03

(3) denoting, or intended to denote, the right of any person as a subscriber in respect of any loan raised or proposed to be raised by any company or proposed company, or by any municipal body or corporation 03

See sections 72 and 73

Letter of Credit, see Bill of Exchange.

Letter or Power of Attorney, and Commission, Factory, Mandate, or other instrument in the nature thereof—

(1) For the sole purpose of appointing or authorising a proxy to vote at any one meeting at which votes may be given by proxy, whether the number of persons named in such instrument be one or more

03

(2) by any petty officer, seaman, marine, or soldier, serving as a marine, or his representatives, for receiving prize money or wages 30

N k

(3) For the receipt of the dividends or interest of any stock—

Where made for the receipt of one payment only

In any other case 1 50

(4) For the receipt of any sum of money, or any bill of exchange or promissory note for any sum of money, not exceeding N40, or any periodical payments not exceeding the annual sum of N20 (not being hereinbefore charged) 1 50

(5) Of any kind whatsoever not hereinbefore described 3 00

Exemptions:

(1) Letter or power of attorney for the receipt of dividends of any definite and certain share of the Government or funds producing a yearly dividend less than N6.

(2) Letter or power of attorney or proxy filed in a High Court in connection with Probate Jurisdiction of the Court.

[Amended by L.N. 47 of 1955.]

(3) Order, request, or direction under hand only from the proprietor of any stock to any company or to any officer of any company or to any banker to pay the dividends or interest arising from the stock to any person therein named.

(4) Letter or power of attorney for the sale, transfer or acceptance of any of the Government stocks or funds.

(5) Power of attorney given exclusively for the purpose authorising the receipt of money payable on the redemption of Government stock.

(6) Power of attorney or authority given to any person to receive from the Treasury any monies payable to any person in the service of the Government.

See sections 74 and 75

(a) Letter of Hypothecation 39

(b) Letter of Trust 39

[Inserted by Resolution and Order 4 of 1939.]

Licence to act temporarily as a Solicitor, and on every renewal of such licence 10 50

Licence coupled with a grant. See section 64.

Licence under the Piers Act 75

Marketable Security—

(1) Marketable Security being a security not transferable by delivery—

For or in respect of the money thereby secured. The same ad valorem duty to the nature of the security as upon a mortgage.

(2) Marketable Security being a security transferable by delivery—

For every N20, and also for any fractional part of N20 of the money thereby secured

45

(3) Marketable Security being such security as last aforesaid given in substitution for a like security duly stamped in conformity with the law in force when it became subject to duty—

For every N40, and also for any fractional part of N40 of the money thereby secured

09

(4) Transfer, Assignment or Disposition of a marketable security of any description—

Upon a sale thereof. See Conveyance or Transfer on Sale.

Upon a mortgage thereof. See Mortgage of Stock or Marketable Security.

In other case than a sale or Mortgage 1 50

See sections 2 and 76–78

[Amended by 28 of 1941 and 17 of 1942.]

Mortgage, Bond, Debenture, Covenant (except a marketable security, otherwise specially charged with duty), and Warrant of Attorney to confess and enter up judgment.

(1) Being the only or principal or primary security (other than an equitable mortgage) for the payment or repayment of money, for every N200, and also for every fractional part of N200, of the amount secured 75

(2) Being a collateral, or auxiliary, or additional or substituted security, or by way of further assurance for the above-mentioned purpose, where the principal or primary security is duly stamped: for every N200, and also for every fractional part of N200, of the amount secured 15

(3) Being an equitable mortgage, for every N200, and also for every fractional part of N200 of the amount secured 30

(4) Transfer, Assignment or Disposition of any mortgage, bond, debenture, or covenant (except a marketable security) or of any money or stock secured by any such instrument, or by any warrant of attorney to enter up judgment, or by any judgment—

For every N200, and also for any fractional part of N200 of the amount transferred, assigned, or disposed, exclusive of interest which is not in arrear 15

And also where any further money is added to the money already secured. The same duty as a Principal security for such further money.

(5) Reconveyance, Release, Discharge, Surrender, Resurrender, Warrant to Vacate, or Renunciation of any such security as aforesaid, or of the benefit thereof, or of the money thereby secured—

For every N200, and also for any fractional part of N200, of the total amount or value of the money at any time secured 15

See sections 80–82

Mortgage of Stock or Marketable Security—

Under hand only. See Agreement and section 29.

By deed. See Mortgage, and section 80.

Mutual Disposition. See Exchange.

Notarial Act of any kind whatsoever (except a protest of a bill of exchange or promissory note)

15

See Protest and section 83

Notary Public, on being sworn 5 00

Order for the payment of money. See Bill of Exchange.

Partition or Division, Instruments effecting—

In the case specified in section 67. See that section

In any other case 3 00

Policy of Insurance—

Policy of Life Insurance—

Where the sum insured does not exceed N1000; for every N100, and also for any fractional part of N100, of the amount insured 09

Exceeds N1,000 but does not exceed N2,000; for every N200 and also for any fractional part of N200, of the amount insured 15

Exceeds N2,000, for every N2,000 and also for any fractional part of N2,000, of the amount insured
1 50

See sections 84, 87 and 88

Policy of Marine Insurance. See sections 84–87 05

Policy of Insurance against Accident and Policy of Insurance for any payment agreed to be made during the sickness of any person, or his incapacity or damage of or to any property 09

See section 84–87

[1961 No. 55.]

Policy of Insurance of any kind not hereinbefore specifically mentioned:

Provided that cover notes, slips, or other instruments made in the anticipation of the issue of a formal policy of marine insurance shall not be taken for the purposes of this subhead to be policies of insurance.

The same ad valorem duty as is payable under the heading “Policy of Life Insurance” in this Schedule.

Exemption:

Exemption:

Policies of Insurance on baggage or personal or household effects only, if made or executed out of Nigeria.

Power of Attorney. See Letter of Attorney.

Procuration, deed or other instrument of 1 50

Protest of any bill of exchange or promissory notes:—

Where the duty on the bill or note does not exceed 10K. The same duty as the bill or note

In any other case 15

See section 83

Promissory Note. See Bill of Exchange.

[Amended by 28 of 1941.]

Receipt given for or upon the payment of money amounting to N4 or upwards 02

Exemptions:

- (1) Receipt given by any person or his representative for or on account of any salary, pay or wages or for or on account of any other like payment made to or for the account or benefit of any person being the holder of any office or an employee, in respect of his office or employment, or for or on account of money paid in respect of any pension, superannuation allowance, compassionate allowance or other like allowance.
- (2) Receipt endorsed or otherwise written upon or contained in any instrument liable to stamp duty and duly stamped, acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest or annuity thereby secured or therein mentioned.
- (3) Acknowledgment by any banker of the receipt of any bill of exchange or promissory note for the purpose of being presented for acceptance or payment.
- (4) Receipt given for money deposited in any bank, or with any banker, to be accounted for and expressed to be received of the person to whom the same is to be accounted for, or for money withdrawn from a savings bank account.
- (5) Receipt given by the payee of a money order.
- (6) Receipt given for or upon the payment of any Government duties or taxes or of money to or for the use of the Government.
- (7) The duplicate of any receipt required by Government to be given in duplicate, the original receipt being duly stamped.
- (8) Receipt given by an officer of a public department of the Government of Nigeria or a State for money paid by way of imprest or advance, or in adjustment of account, where he derives no personal benefit therefrom, or for the refund of out-of-pocket expenses due from Government.

[Amended by Ordinance 2 of 1953.]

- (9) Receipt given for drawback or bounty upon the exportation of any goods or merchandise.
- (10) Receipt given for the return of any duties of customs upon certificates of over-entry, or upon reimportation certificates.
- (11) Receipt given for the refund of any sums deposited with the Treasury under the provisions of the Minerals Act.
- (12) Receipt given for the return of any monies over-collected by Government.
- (13) Receipt given by a prisoner on discharge, for money placed on deposit in the Treasury, or otherwise retained, during the term of his imprisonment.
- (14) Receipt given by an accused person for money or other property taken from him on his arrest.
- (15) Receipt given for money given or subscribed to the Nigerian Red Cross Society.

(ii) Issued by any company or body of persons formed or established out of Nigeria, for every N20 or fraction thereof of the nominal value of the share or stock to which the warrant or certificate relates 16

See sections 77, 96, 97 and 98

[Substituted by 28 of 1941.]

Superannuation Annuity. See Bond, Covenant.

Surrender—

Of any kind whatsoever not chargeable with duty as a conveyance on sale or a mortgage and not being a surrender of a certificate of occupancy under the Land Use Act, or of a mining lease or water right under the Minerals and Mining Act 1 50

[Cap. L5. Cap. M12.]

[Amended by 17 of 1942.]

Transfer. See conveyance or Transfer.

Voting Paper. Any instrument for the purpose of voting by any person entitled to vote at any meeting of any body exercising a public trust, or of the shareholders, or members, or contributors to the funds of any company, society or institution 03

See section 74

Warrant of Attorney to confess and enter up a judgment given as a security for the payment or repayment of money, or for the transfer or re-transfer of stock. See Mortgage.

Warrant of Attorney of any other kind 3 00

Warrant for Goods 09

Exemptions:

(1) Any document or writing given by an inland carrier acknowledging the receipt of goods conveyed by such carrier.

(2) A weight note issued together with a duly stamped warrant, and relating solely to the same goods, wares, or merchandise.

See section 99

General Exemptions from all Stamp Duties—

(1) Transfer of shares in the Government or legislative stocks or funds of Nigeria.

(2) Instruments for the sale, transfer or other disposition, either absolutely, or by way of mortgage, or otherwise, of any ship or vessel or any part, interest, share or property of or in any ship or vessel.

(3) All instruments on which the duty would be payable by Government.

(4) All instruments on which the duty would be payable locally by Government in Nigeria or any of the departments thereof.

[Inserted as (3A) by 28 of 1941.]

(5) Agreements made with the Nigerian Railway Corporation relating to the receipt and carriage of passengers, goods or animals.

(6) Indemnity bonds given to the Nigerian Railway Corporation by consignees (when the railway receipt is not produced) in respect of the delivery of consignments of fresh fish, fruit and vegetables, and other perishable articles.

(7) An instrument of apprenticeship to which the Government is a party.

(8) Bond given by public officer for the execution of his duties.

(9) All instruments in which the duty would be payable by any consular officer arising out of his official functions where the foreign government he represents grants the like exemption to Nigerian consular officers.

[38 of 1950.]

(10) Instruments relating to the alienation of land or any interest therein which are approved by local authorities of the Southern States of Nigeria in accordance with rules made by them under the Local Government Laws.

[Resolution 6 of 1951.]

(11) All instruments relating to the alienation of land or any interest therein which are approved by any local government council under any by-law made under either the Eastern States Local Government Laws or the Western States Local Government Laws, 1953.

[L.N. 64 of 1954. 16 of 1950. 1 of 1953.]

(12) All instruments regarding which the Government of the Federation is competent to make laws executed by or on behalf of any co-operative society registered under any Act or law or by any officer or member of such a society relating to the business of such society.

[L.N. 90 of 1956.]

(13) All documents relating to the transfer of stocks and shares.

STAMP DUTIES ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

1. Stamp Duties (Mortgage and Marketable Security Duties) Regulations.
2. Stamp Duties (Approval for One Unit Die of One Million Naira) Notice, 2003.

Stamp Duties (Mortgage and Marketable Security Duties) Regulations

[L.N. 38 of 1964.]

under section 107

[1st November, 1963]

[Commencement.]

1. Short title

These Regulations may be cited as the Stamp Duties (Mortgage and Marketable Security Duties) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“capital duty” means duty on loan capital imposed under the Act;

“duty” means the duty in respect of mortgage or marketable security imposed under the Act;

“the Act” means the Stamp Duties Act.

[Cap. S8.]

3. Compounding of duty in respect of certain mortgage or marketable security

Where a trust deed or other document on which the duty is payable, is made or issued subsequent to the issuing of a loan capital which the said trust deed or other document secures, then provided that capital duty has already been paid on the issue of that loan capital, the amount of the duty payable on the trust deed or other document shall—

(a) be compounded in full in a case where the amount of duty so payable is less than the amount of the capital duty so already paid; or

(b) be compounded to the extent of the amount of the capital duty so already paid in a case where the amount of the duty so payable exceeds the amount of capital duty.

Stamp Duties (Approval for one unit die of one Million Naira) Notice

[S.I. 16 of 2003.]

[31st December, 2003]

[Commencement.]

1. Approval of one unit die of one million naira

There is hereby approved for use in the Federal Stamp Duties Offices in Lagos, Abuja and Port Harcourt the one unit die of new design of impressed revenue stamp of one million naira value.

2. Citation

This Notice may be cited as the Stamp Duties (Approval for One Unit Die of One Million Naira) Notice, 2003.